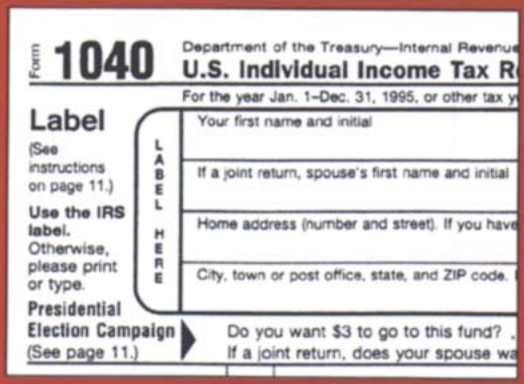
THE FREEMAN

IDEAS ON LIBERTY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U.S. Individual Income Tax R
For the year Jan. 1–Dec. 31, 1995, or other tax y
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(See instructions on page 11.)
Use the IRS label. Otherwise, please print or type.
LABEL HERE
Your first name and initial
If a joint return, spouse's first name and initial
Home address (number and street). If you have
City, town or post office, state, and ZIP code.
Presidential Election Campaign
(See page 11.)
Do you want $3 to go to this fund?
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PERSPECTIVE

Once Again, Freedom Is at Fault

"The condition upon which God hath given liberty to man is eternal vigilance," was how John Philpot Curran put it. Sure enough, but there are different kinds of vigilance. My experience suggests that one of the most important forms in a relatively free society such as ours is to unfailingly meet arguments promoting the violation of human freedom.

I thought of this when I came across the book by Cornell University economist Robert H. Frank and Duke University political scientist Philip J. Cook, *The Winner-Take-All Society* (The Free Press, 1995). The authors argue that in many fields of work we sometimes encounter what they see as a disturbing phenomenon: a few superstars taking all the money, leaving everyone else to fight for the leftovers. As they put it, "The incomes of the top 1 percent more than doubled in real terms between 1979 and 1989, a period during which the median income was roughly stable and in which the bottom 20 percent of earners saw their incomes actually fall by 10 percent." Because of this Frank and Cook recommend—you guessed it—a drastic expansion of the system of progressive taxation.

If Michael Jordan, Tom Brokaw, John Grisham, John Silber, Cindy Crawford, Larry King, Sandra Bullock, Rush Limbaugh, George Will, Barbara Cartright, Anne Rice, Michael Jackson, and Arnold Schwarzenegger take home so much of the available money in their respective professions, we must take action. We must take the money from them. This will discourage super-stardom and allow us to redistribute their ill-gotten gain to others—whom we did not elect, by our choices in the free market, to support when spending our money. Politicians and bureaucrats would be authorized, if these authors had their way, to correct our errors, to eliminate this egregious "market failure."

Why are unequal incomes regarded as a market failure? Because the top achievers

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aren't really more deserving than those bunched below them. Surely Rush Limbaugh's radio rap isn't so much better than that of the typical local talk show host. Michael Jordan plays superbly, but not well enough to justify all the endorsement contracts he receives. Michael Jackson . . . well, you get the idea, don't you?

I confess that this resonates with me a bit. I am a small-time writer: my 12 books haven't brought in enough to pay for the paper on which they are printed, my columns earn me a pittance compared to what George Will collects, and so on and on. I am envious, at times, of all those who live in the big cities and get exposure on the Sunday morning news programs. Even in my field of philosophy, there are stars whose popularity—manifest in their repeated appearance on the pages of not only the most prominent and prestigious scholarly journals but also of national magazines and Sunday book review supplements—is way out of proportion to their talent and achievement. They are where they are in large measure from bad habit, luck, or knowing the right people—with their superior achievements probably accounting for a fraction of the rewards they reap, not just in money earned but in influence they peddle.

But so what? How dare anyone suggest that this is something that others ought to redress through coercive government intervention? It is an outrage.

I don't know if the scholars who propose this are simply morally obtuse or actually envious of the fame and fortune of a few others in their field—perhaps Nobel Prize winners Gary Becker or Milton Friedman in economics, for example. Their motivation doesn't make any difference. What is clear is that they are proposing yet another phony excuse to increase the power of the State over the lives of citizens in a supposedly free society.

It is perhaps worth noting that the complaint voiced by Frank and Cook applies to an era of American economic history that is hardly characterized by a national economic policy of laissez faire. Quite the contrary—our national economic system has become ever more managed by government. Regulation, taxation, nationalization of land, control of wages and labor relations, welfare, and the rest have continually expanded, both at the state and national levels. At most there has been some decrease in the rate of the growth of government interference. Even the current Republican Congress has not managed to reduce government regulation and spending, but only stem proposed increases in some areas.

But even if it were true that a bona fide free market had spawned something akin to the winner-take-all society, so what? If I wish to ogle two or three supermodels and thus increase their wealth beyond what their competitors earn, that is my business. My earnings, my time, and my good or ill fortune are for me to distribute to willing takers, not for the politicians and bureaucrats whose power Frank and Cook are so eager to rationalize.

Frank and Cook can, of course, do some good by letting us know about the trends of which they write. But their proposed remedy is wrong and should be rejected by anyone concerned for the future of our society. Liberty does require eternal vigilance, especially when confronting sophists who would arm the statists with greater power over us.

—TIBOR R. MACHAN

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THE FREEMAN
IDEAS ON LIBERTY

How High a Price for Civilization?

by Stephen Gold

In the battle over tax reform, skirmishes over the current level of taxation are inevitable. As in the past, supporters of big government will almost certainly complain that taxpayer advocates only focus on one side of the fiscal equation, that is, the revenue side. What about the return on our money? As Justice Oliver Wendell Holmes once said, and high tax enthusiasts are wont to repeat, "Taxes are what we pay for civilized society."

Of course, when Justice Holmes made this observation in *Compañia de Tabacos v. Collector* (1904) the average American's total tax burden was about 7.6 percent of his income. Today, federal corporate income taxes alone account for a higher percentage. In all, our nation's tax burden hovers around 35 percent of total income, not including the cost of tax compliance, future taxes made necessary by deficit spending, or regulation.

Counter tax advocates: So what? More taxes simply mean more (and, by implication, better) government. "Every nickel that goes in comes back in some way or another," Robert McIntyre of Citizens for Tax Justice has stated. A *Des Moines Register* editorial defended the current level of taxation, pointing to the value of such programs as national defense, public schools, police and fire protection, national parks, roads and highways, and safety nets for the unemployed, the disabled, and the elderly.

Yet such *ad populum* arguments, while relevant, leave fundamental questions unresolved—such as, how much government spending is actually necessary? Or, to phrase it in a way Justice Holmes would appreciate, how much tax collection does it take to achieve a "civilized society"?

What Is Civilized?

To answer that, we must first ask: what do we mean by a "civilized society"? In an informal sense, "civilization" simply means a modern society with conveniences, as opposed to life in the middle of the jungle—Webster's definition. But Justice Holmes probably had in mind a more technical meaning, one centering on a stable system of governance that could protect life, liberty, and property, while providing due process of law for its citizens.

Based on this view, the United States was civilized at its founding. The central government created by the framers of the Constitution was, to say the least, a minimalist national government, with a primary mission of maintaining a military, minting coins, operating judicial and postal systems, and, later, helping to build roads and canals. Throw in some police, courts, and additional roads at the state and local level, and that was about the extent of late eighteenth-

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century American government. There were no large transfer payments between generations and between income groups, no regulatory agencies, and no funding of the arts, humanities, or sciences. Nevertheless, society was still civilized.

Indeed, one of its most civilizing aspects was the legal framework that protected property rights and economic freedom. As a result, the economy expanded, people grew steadily wealthier, and living standards rose. All this while federal revenues were a mere $1 per capita in 1790, almost all of which were collected through duties on imported goods. In today's dollars, that's roughly $9 per person. So not only was society civilized, but the path to civilization was economical.

A little over a century later, when Oliver Wendell Holmes joined the Supreme Court, government's prime mission remained centered on national defense, law and order, roads, and mail delivery. In addition, the federal government had ventured into such areas as public land management, agriculture, and regulation of interstate commerce. As a result, between 1815 and 1900 federal employment jumped 4,950 percent, compared to U.S. population growth of 880 percent. Meanwhile, state and local government had taken on the responsibility of undertaking such public improvements as street lighting, street cars, and sewage systems. Yet by contemporary standards government was still small, unobtrusive, and cheap. By 1900 the total cost of government had risen to $21 per capita (about $380 in today's dollars), a third of which was for federal operations.

Here, then, was Justice Holmes's vision of and price for a civilized society. Maybe it was overpriced, considering that taxes were used to create Jim Crow laws and Supreme Court cases like *Plessy v. Ferguson* (a.k.a. "separate but equal facilities"), which served more to set civilization back. But compared with today's unimaginably large government expenditures, the price was low.

What, then, of our current level of public services? Over the past 90 years the federal government has aggressively expanded into such areas as income redistribution, business regulation, and education, not to mention a vast array of special interest subsidies. To fund its growing activities, government expanded its ability to collect taxes, most significantly through the addition of an income tax (1913) and a payroll tax (1935)— which, combined, now account for almost two-thirds of all taxes collected. Altogether, total taxes in 1995 average $8,303 per person, an inflation-adjusted increase of about 2,300 percent over 1900 levels.

More Civilized Today?

Does this dramatic growth over the past century imply that we are more civilized—indeed, 2,300 percent more civilized—than before? In terms of having the ability to uphold democratic principles worldwide (winning World War II and the Cold War come to mind), the answer would seem to be yes, which would confirm Justice Holmes's view of the purpose for taxes.

That said, the increased tax burden has led to few other truly civilized trends. Government's financial generosity to certain segments of the population has only come at the expense of others, and has helped create an underclass of people highly dependent on public handouts. Government's control of private enterprise, through a tangled web of regulations, has come at the expense of economic growth and liberty. Government enterprises, like education, are in disarray. Similar policies internationally, such as foreign aid, seem to have done more harm than good. Big government advocates may call these public policies fair and necessary, but they hardly qualify as civilizing features in the tradition of Justice Holmes.

Indeed, to imply that every dollar in taxes today is necessary to maintain our civilized society is to ignore government's inevitable waste, its bureaucratic inefficiency, and the constant political shuffling of money to favorite targets. How much of today's tax burden has gone to fund programs—started perhaps a century ago (Interstate Commerce Commis-

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sion) or a half-century ago (Rural Electrification Administration)—that have outlived their usefulness? For that matter, how much of the money sent to Washington could be more wisely used by the families and individuals if they were allowed to hold onto it?

The current level of taxation in America should be a part of any future debate in Congress over tax reform. For its part, the American public needs to decide what it expects out of government and how much it's willing to pay. In other words, Americans need to rethink Justice Holmes's observation, and decide what is really needed to make a civilized society in the twenty-first century. □

Original Intent and the Income Tax

by Raymond J. Keating

Entrepreneurs drive the economy. By creating and investing in new businesses, ideas, and innovations, the entrepreneur ensures economic renewal and growth. Unfortunately, the federal government has an economically unhealthy habit of throwing obstacles in the path of entrepreneurs, such as burdensome regulations and inflationary monetary policies. Perhaps the most formidable government barrier, though, is the income tax.

Today's federal income tax system is punitive, complicated, inefficient, intrusive, and impedes entrepreneurship, investment, economic growth, and job creation. Interestingly, however, when initially imposed, the income tax, despite its progressive rates, appeared rather straightforward and not all that burdensome—almost benign. Of course, appearances can be deceiving.

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There were, of course, warnings about the dangers of a progressive tax structure. But people supported the income tax because it was originally meant to impose only very low tax rates on only the highest incomes. Proponents argued that the 16th amendment to the U.S. Constitution would force the so-called "robber barons" to pay taxes. It was not supposed to provide a mechanism for Washington to reach into most Americans' pockets.

Figures 1 and 2 illustrate this point. Figure 1 shows the personal income tax structure as initially imposed in 1913, while figure 2 indicates what this tax system would look like in 1994 dollars.

Original Tax Rates

The original income tax was obviously not meant to be paid by most citizens, nor were rates high enough to significantly undermine the spirit of enterprise. For example, under this system single taxpayers today would

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Figure 1:
1913 Personal Income Tax System

Tax Rate	Income Level
1%	up to $20,000
2%	$20,000-$50,000
3%	$50,000-$75,000
4%	$75,000-$100,000
5%	$100,000-$250,000
6%	$250,000-$500,000
7%	over $500,000

(A $3,000 exemption for single filers and $4,000 for a married couple.)

Figure 2:
1913 Personal Income Tax System in 1994 Dollars

Tax Rate	Income Level
1%	up to $298,507
2%	$298,507-$746,269
3%	$746,269-$1,119,403
4%	$1,119,403-$1,492,537
5%	$1,492,537-$3,731,343
6%	$3,731,343-$7,462,687
7%	over $7,462,687

(A $44,776 exemption for single filers and $59,701 for a married couple.)

pay no tax on any earnings up to almost $45,000 and married couples on earnings up to almost $60,000. A one percent tax rate would be in effect on incomes up to about $300,000. The top rate of 7 percent would not take hold until earnings hit almost $7.5 million.

As for the corporate income tax, it was imposed in 1909 at a rate of one percent and included a $5,000 exemption. Again, translated into 1994 dollars, companies would face the one percent rate with an exemption of $81,967.

Alas, people attracted to the income tax through appeals to envy soon discovered that envy knows no boundaries and never makes for good economic policy. Government rather quickly transformed the income tax from a light tax on high incomes to a heavy tax on almost all incomes.

This very different income tax than originally intended then acted as high-octane fuel for the growth of government spending. Between 1913 and 1994, inflation-adjusted federal government expenditures increased by 13,592 percent! Over this same period, personal and corporate income taxes grew from 7 percent of total federal revenues and 0.1 percent of the economy, to more than 54 percent of total federal revenues and over 10 percent of U.S. GDP.

The income tax also proved to be an economically dangerous levy, raising the costs of working, saving, investing, and risk-taking, thereby restraining economic growth. From 1870 to 1913—between the Civil War income tax and the post-16th Amendment income tax—the U.S. economy expanded by over 435 percent in real terms, or by an average rate of more than 10 percent per year—with no inflation. Alas, as we now look toward the twenty-first century, America's economic vitality in an increasingly competitive world economy is suspect.

The implications are clear: surely we must downsize government, deregulate our economy, and ensure sound money. Perhaps most important, though, we should replace our current tax system with a low, flat income tax. Or better yet, we should put an end to what has turned out to be one of the biggest impediments to entrepreneurship and growth in America this century—the income tax. The resulting entrepreneurial boom might surprise even the most wild-eyed optimists and launch the U.S. economy into the twenty-first century. □

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Taking Taxes: The Case for Invalidating the Welfare State

by Donald J. Kochan

As attempts to downsize the welfare state continue, reformers are relying primarily on practical arguments—that transfer programs waste taxpayers' funds and hurt the poor, for instance. They do, but there is a more fundamental issue: social programs have no constitutional warrant. Even if such outlays fell under an enumerated power, they would still run afoul of the Takings Clause of the Fifth Amendment.

"Nor shall private property be taken for public use without just compensation" runs this critical protection in the Bill of Rights.[1] Properly interpreted, this clause prohibits taxing citizens to fund programs for the benefit of others, for doing so violates the requirements that any taking of "private property" be for "public use" and that the property owner receive "just compensation."

Negative Liberty

The nation's founding was based on the concept of negative liberty: law exists to protect against coercive intrusions and not as a means for compelling action. Tort law expressly holds that an individual cannot be forced to give up a portion of his liberty to benefit another, no matter how little the cost. The common law "Good Samaritan Rule," for instance, states that no one is legally obligated to provide any level of help to another in need.

As men consent to be governed, they agree to transfer certain enforcement powers, formerly held privately, to public law as a means of promoting efficiency and order. Thus, the constitutional compact merely shifts the enforcement of certain private law obligations to the State; it does not create new duties, with no pre-existence in the private law, except where expressly stated. Explained constitutional commentator Joseph Story: "A man has a perfect right to life, to his personal liberty, and to his property; and he may by force assert and vindicate those rights against every aggressor. But he has but an imperfect right to . . . charity . . . even if he is truly deserving it." These imperfect rights "may not be asserted by force of law, but are obligatory only on the conscience of parties."

Takings and Taxings

It is true that Article I, Section 8, of the Constitution grants Congress the power to lay taxes. The Sixteenth Amendment expanded this power by allowing the federal government to tax income. Obviously the government is given the power to tax.

In private law, however, C never has a claim to take A's property merely because C

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desires (or "needs") it. There is no reason to believe that the Founders intended to grant C the power to employ the State to the same ends. Added to this is the fact that one of the most important goals of the Constitution was to guarantee property rights. This protection, defined broadly, was seen as the critical justification for government. Given this legal and philosophical backdrop, the restrictions of the Takings Clause should not be viewed lightly.

Granting government the power to tax does not release it from its obligations under the Fifth Amendment to spend such revenues only on those purposes of government which are for public use and provide compensation to all whose incomes are taken. Money is to be seized only to support the commonly understood function of government: the protection of individual rights from intrusion by the State or other members of society. This obligation forms the core of the Fifth Amendment.

Thus, the Takings Clause screens out illegitimate seizures by forcing all such actions to meet two criteria: (1) property is taken only for "public use"; and (2) "just compensation" is rendered to those whose property is taken. Transfer payments violate both of these limitations on the eminent domain power. Social programs transfer money from A (the taxpayer) to B (the government) for redistribution to C (the program beneficiary). In this case, government has taken private property from A for the *private* use of C. A derives no benefit, for C retains an undivided interest in A's property; therefore it is inconceivable that A is compensated at all, let alone justly.

The purpose of the State, and the Constitution's delineation of enumerated powers, clearly limits the federal government from acting as anything other than a public functionary. Accordingly, it is vital to define what constitutes a "public use" as a proper exercise of the government's power.

Eighteenth-century dictionaries help distinguish between public and private purposes. One source defines "public" as that which is "belonging to a state or nation; . . . regarding not private interest, but the good of the community."[2] The usual understanding is that "public" involves those things in which all individuals have a common interest, not those in which certain people, in exclusion of others, have a specific interest.

The word "use" also indicates the narrowness of allowable takings. By including "use" instead of "purpose," "interest," "rationale," "reason," "benefit," or similar term, the Framers chose a stricter test to judge the legitimacy of government action. All of these alternates would allow uses of any kind so long as the government could claim that the ultimate effect would prove worthwhile. Such constructs would leave the Takings Clause empty: Congress could contend that any action provided some subjective benefit or interest to society.

"Purpose" could prove more limiting in that it would require government to prove that it was exercising a legitimate role of government as found in the Constitution. "Purpose" alone, however, is somewhat ambiguous, and would allow transfer payments if such transfers arguably served some end of government in the long run. "*Use*," however, incorporates the limitations of "purpose" while narrowing the field of legitimate actions even further. "Use" has retained the meaning of "employing with a purpose."[3] This requires that the public entity actually exercise the use for which property is taken. The most appropriate correlation today would be the economic term "public goods." A public good involves a government action for the indivisible benefit of all members of society.

Taken together, "public" and "use" can be further defined through three tests which distinguish between public and private uses. Genuine public uses must be inclusive, dividing equally the interest and surplus among all those in society; provide universal access; and be necessary, that is, address problems not susceptible to private solutions.

Inclusivity requires that no citizens be excluded from the benefits of the government's action. The court system, police power, and national defense all satisfy this requirement. Funding a program to protect one individual provides that protection to

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all. The benefits are not discriminately provided to only certain members of society. No one is excluded from satisfying a claim to the use of his property; rather, everyone retains access to the courts and police, for instance. It is necessary for government to fund national defense because individuals cannot protect themselves individually from foreign intruders. Redistributive programs, however, fail all of these tests.

Even if social welfare programs satisfied the "public use" portion of the Takings Clause, they would fail the "without just compensation" component. In cases where taxes constitute the taking in question, compensation can only be derived from the government function provided from spending such funds, since to require monetary compensation would leave the state's coffers empty and consequently defeat the purpose of taxation.

The 1755 edition of Johnson's *Dictionary of the English Language* defines "just" as "exact; proper; accurate; . . . equally retributed" and "compensation" as "something equivalent; amends." Blackstone spoke of just compensation as "a full indemnification and equivalent for the injury thereby sustained." This notion of equivalency is precisely that understood by the Framers when crafting the Takings Clause.

In most takings, the equivalency is paid in cash, but this is not the only means. The idea that taxes would be used to "provide for the common Defence and general Welfare"[4] indicates that takings for these purposes would be compensated by fulfilling the state's duty to protect individual rights.

Thus, the "just compensation" component follows the "public use" requirement. If universal access is missing, then some surrender taxes without receiving any or adequate compensation. Even if one argues that the term "public use" is not restrictive in itself, in relation to taxation only those uses that are public will offer sufficient compensation. Funding entitlement programs for which the taxpayer is ineligible violates this requirement.

Some might argue that indirect benefits from redistributive programs constitute compensation, just as they argue that "use" involves any effect of a taking which proves beneficial. However, the Founders likely chose "compensation" instead of "benefit" in anticipation of such arguments. "Compensation" is not the same as "benefit"; nondiscriminatory access to the actual use is the only means by which just compensation for taxes is possible.

Additionally, genuine compensation must be directly linked to the taking. It requires that the property seized be replaced by something equally valuable. Positive externalities resulting from the taking, even if real and measurable, are mere consequences of the use. They are not compensation.

End of the Welfare State?

Social Security, unemployment benefits, corporate subsidies, farm programs, ordinary welfare, and countless other manifestations of the welfare state all represent uncompensated takings redistributed for private use. Thus, all violate the protections afforded property in the Fifth Amendment.

Unfortunately, the courts today hardly remember that the Takings Clause even exists. And, admittedly, the welfare state has become so much a part of American society that it cannot be easily removed. The fact many people have come to rely on the welfare state, however, does not justify continuing to ignore the Constitution. Observed University of Chicago Law Professor Richard Epstein in his book *Takings*, "A correct theory at the very least can lead to incremental changes in the proper direction. . . . When the stakes are high, any shift in course has important consequences."

It is time for defenders of liberty to appeal to constitutional principle as well as practical consequence. The Constitution requires no less. □

1. U.S. Constitution, Amendment V. The correct interpretation of this clause also limits the power of the states through similar clauses in each state constitution.
2. Johnson, *A Dictionary of the English Language* (2d Ed., 1755).
3. Roger Clegg, *Reclaiming the Text of the Takings Clause*, 46 S.C.L. Rev. 531, 543 (Summer 1995).
4. U.S. Constitution, Article I, Section 8.

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The Perversion of Economic Development

In a country known for having forged the world's highest living standard from what was wilderness scarcely 200 years ago, one would think that "economic development" is a well-understood concept. Unfortunately, it isn't.

In recent decades, economic development has come to mean something other than the spontaneous, entrepreneurial phenomenon that built America. It is often thought of as a kind of activist, public-policy responsibility of state and local governments. It rarely is defined as a "fair field and no favor" approach in which governments keep themselves unobtrusive and inexpensive so as to give wide berth to free markets. Instead, economic development conjures up notions of bureaucracies and commissions directing resources, subsidizing specific firms, granting special tax breaks to some and not to others, and erecting a vast network of regulatory incentives and disincentives to affect behavior in the economy.

In short, economic development has come to mean what many statists and central-planning types are fond of calling "industrial policy." They think the marketplace lacks direction and needs the assistance of officialdom. With tax dollars in hand to bestow upon the favored few, bureaucrats claim new prophetical powers of distinguishing the winners from the losers in the marketplace.

Many politicians find this approach attractive because it brings with it the pageantry of ribbon-cuttings and photo opportunities. They love to say, "Look at the jobs I created."

Ever since 1976, when Pennsylvania successfully lured Volkswagen with an $86 million package of loans, subsidies, and abatements, states have been adopting similar schemes with great gusto and fanfare. Often referred to as "incentive packages," they have become increasingly generous in spite of dubious results. Indeed, a 1989 report from the Council of State Governments stated emphatically, "[A] comprehensive review of past studies reveals no statistical evidence that business incentives actually create jobs. . . . They are not the primary or sole influence on business location decision-making and . . . they do not have a primary effect on state employment growth."

They do, however, shift tax burdens onto those who lack political connections, increase the size of state bureaucracy, hinder the prospects of broad-based tax reduction and bestow alarming discretionary powers upon the boards and commissions that hand out the benefits.

Ever conscious of image and the "big splash," development officials usually devise plans that favor big businesses and discriminate against small firms. They chase

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smokestacks and auto plants and frown on retail or service firms that might actually have more staying power. Firms that do not qualify for credits or subsidies must compete against those who do, raising a question of fundamental fairness.

In the rush to fashion the next industrial policy contrivance, the bigger picture is shoved aside. Sam Staley, Vice President for Research at the Buckeye Institute for Public Policy Solutions in Dayton, Ohio, explains: "The fact is that the value to a firm of a typical, limited-term incentive package from government pales when compared to such factors as overall tax burdens, a reasonably priced skilled labor force, the relative cost of compliance with regulations, efficient transportation facilities, crime rates, education quality, and the general quality of life. If a state or locality is not competitive in these areas, a business will go elsewhere despite the subsidies and credits dangled before it."

Indeed, it is widely understood among economists that companies usually make their location decisions first in private, then hold out for the best incentive deals they can get from gullible government officials, playing one off against another.

The claims of government development czars are almost always overblown, in part because they consider only the more visible side of the ledger. The downside factors of state incentive packages—from the anti-competitive effects on non-favored firms to the opportunity cost of forgoing a more general tax reduction—are rarely factored into the equation.

Even when it doesn't degenerate into a thinly disguised system of political patronage, government placing its judgment ahead of the verdicts of the marketplace is more than just a role of dubious value. It is, indeed, utterly preposterous. No one—political appointees especially—spends someone else's money as carefully as he spends his own. Any firm or entrepreneur who cannot meet the financial performance standards of private banks or venture capitalists does not suddenly become more likely to succeed by virtue of a government grant or favor.

In reality, government's involvement in economic development is more likely to simply reward mediocrity, obstruct the evolution of genuine economic growth, and turn a risky private venture into a long-term public charge. Taxpayers foot the bill whether the development czars succeed or not, unlike truly private endeavors where the greatest risk is confined to those most directly involved with the venture. The folks picked to lead state development bureaucracies end up fattening not the economy, but rather, their résumés for their next government job.

Writing in the November 1995 issue of *The Freeman* ("A Solution to the Incentives War?"), Andrew Cline of the John Locke Foundation in Raleigh, North Carolina, bluntly affirmed what will come as no surprise to the serious economist: "To date, not one incentives proponent has been able to demonstrate that government incentives create a net benefit for the general public."

Fortunately, a national movement is afoot to get state governments out of this business. Organized by several free-market think tanks in the Midwest, more than 100 distinguished economists recently signed a Joint Resolution on State Economic Development Policy. It urges states to abandon their activist industrial policies and pursue across-the-board policies of tax and spending reduction, deregulation, and freer markets. The resolution is now gathering momentum not only in the Midwest but in other corners of the country as well.

The answer, in any event, is not in Washington and it's not in picking different people to run state programs. The answer is in educating the public in general and legislators in particular as to the proper role of government and the real meaning of economic development. When that task is accomplished, policies will change.

The bottom line is what every American with a good sense of history really ought to know: economic development is what happens when government protects life and property and otherwise leaves us alone. □

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THE FREEMAN
IDEAS ON LIBERTY

Does Big Mean Bad? The Economic Power of Corporations

by Don Mathews

Fortune magazine annually presents its "Fortune 500" list of the 500 largest corporations. To some people, the Fortune 500 is a twisted tribute to the most greedy and baneful institution that capitalism offers: the big corporation. Critics of capitalism and big corporations often assert that such companies have excessive economic power and use that power to exploit consumers and workers.

Of course, not everyone thinks big corporations pose an economic menace, but it is striking—at least to me—how many people think large firms exploit consumers and workers to one degree or another.

My wife and I once went to a dinner party at which the host and hostess, both nice people, spent half the evening talking about awful big corporations. The funny thing was that the food they prepared, the appliances they used to make the food, the plates on which they served the food, and the furniture on which we sat to eat the food were all produced by big corporations. I don't think it's fitting to fuss at folks when I'm a guest in their home, so I didn't point out these facts. Later, with my belly full and dignity intact, I drove home with my wife in our car that was built by, yes, a big corporation.

Do big corporations exploit consumers? I reckon that "exploit" in this context means producing inferior goods and selling them at prices that yield enormous profits. Do big corporations produce poor products? Compare the quality and variety of goods and services available today with those on sale five, ten, or 20 years ago. Which would you prefer? The answer doesn't demand much thought. Of course, entrepreneurs are responsible for a great deal of innovation, but it takes only a casual shopping trip to see that big corporations have also brought a lot of new and better products to the market.

Do companies charge prices that yield enormous profits? Before we look at the empirical data, we should note that it really does not make sense to use, as do many business critics, profit or profit margin as measures of the extent that corporations "exploit consumers." Exchange is voluntary in a free market. If a consumer pays a price for a good, and a corporation is not shielded by laws that restrict competition and does not misrepresent its product, then there is no reason to conclude that the corporation is exploiting the consumer simply because it earns a profit on the exchange. (If profit is a measure of exploitation, are

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corporations that lose money being exploited by consumers?)

But assume that charging prices that yield enormous profits constitutes consumer exploitation. The Fortune 500 informs us that the firm with the most profit in 1994 was Ford, with $5.3 billion in profits. That's a lot of money, but it came from revenues of $128.4 billion. Ford's profit amounted to only 4.1 percent of its revenues. General Motors, the largest corporation in 1994, earned $4.9 billion in profits—3.2 cents of each dollar of revenue. How about those big oil companies? Out of every dollar received by Exxon, the largest oil producer, 5 cents went to profit. Mobil, the next in size, kept only 1.7 cents out of each dollar of revenue as profit.

For the Fortune 500 companies in 1994, the median profit as a percentage of sales revenue was 4.6. The other 95.4 percent covered costs: wages and salaries of workers, costs of other inputs, and taxes. The year 1994 was no anomaly. Over the last ten years, median profit as a percentage of revenue for the largest 500 companies has ranged from 2.4 in 1992 to 5.5 in 1988. Those numbers just don't seem to add up to corporate exploitation of consumers.

What About Workers?

Do firms exploit workers? Exploit here traditionally means that owners of capital—stockholders—employ workers to produce goods but expropriate much of the income generated when the goods are sold, leaving little income for workers. Does the bulk of corporate income available for distribution go to owners of capital? In 1992, after-tax profits of all U.S. corporations totaled $249.1 billion. In the same year the compensation of employees of U.S. corporations was $2,337.4 billion. Workers received 90.4 percent of the total corporate income available for distribution. The 1992 income shares are not extraordinary: workers received at least 90 percent of the corporate income available for distribution in every year between 1985 and 1992. In short, the bulk of corporate income goes to workers, not owners.

The notion that corporations exploit consumers and workers is part of the larger charge that big companies have excessive economic power. Do they? What would properly be considered "excessive"? True, in 1994 the largest 500 corporations had $9.6 trillion in assets, $4.3 trillion in revenues, and $215 billion in profits, figures that are significant by any measure. But to conclude that economic power is therefore concentrated in big corporations is mistaken. Why? Because individual firms act in their own interest, not the interests of big corporations as a group. Companies have disparate interests, and they compete with each other. Consider the top three companies in the Fortune 500: GM, Ford, and Exxon. GM wants what is best for GM, not what is best for the Fortune 500. It would be best for GM if oil and gas prices were very low; GM's production costs would be less and its cars would be more attractive to consumers. But low oil and gas prices would not be in Exxon's interest. Exxon would prefer high oil and gas prices. GM and Exxon have conflicting interests, and what is good for one is not necessarily good for the other.

Firm vs. Firm

The divergence in interests between GM and Ford is even more apparent: these corporations directly compete with each other. When GM expands its market share, it does so at the expense of its competitors, particularly Ford. GM would like nothing more than to develop cars that put its competitors' products to shame in the marketplace. Given the nature of the competition between GM and Ford, how can one conclude that there is excessive economic power in the auto industry simply because GM and Ford are the two largest U.S. corporations?

The rivalry between firms can be extraordinary. The *Wall Street Journal* recently ran a story about how big oil corporations—that's right, oil corporations—each spend millions of dollars testing the products of

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their competitors to determine whether the claims made by competitors in their advertising are accurate. When Chevron discovered that Texaco was making a false statement about its CleanSystem3 gasoline, Chevron made it public, and Texaco withdrew its $40 million ad campaign.

The point is not that large companies are pure, innocent babes in the economic woods. They are not. But the economic power of big corporations cannot be accurately gauged without considering the generally fierce competition between firms. Businesses compete with each other for consumer dollars and skilled workers. A corporation cannot force customers to buy its product; when it attempts to "exploit" consumers by bringing a shoddy product to the market at a high price, it soon loses customers to a competitor who offers a better deal. Nor can a company force people to work for it. When it attempts to "exploit" workers by paying them little, the workers leave for employers who pay workers more. Competition between corporations (and entrepreneurs) constrains the power firms have over consumers and workers by punishing businesses that exploit consumers and workers.

Some critics of capitalism believe that being "big" makes a corporation impervious to market competition. But alongside the trail of American economic history you will find plenty of fallen corporate giants, emaciated or wasted entirely by market competition. Where are American Motors, Continental Bank, Eastern Airlines, and Kaiser Steel today? They don't exist. They were among the largest companies in the country not long ago. In his *A History of American Business*, C. Joseph Pusateri, presents the lists of the 25 largest U.S. corporations in 1917, 1957, and 1986. If being "big" shielded firms from market competition, the three lists would be about the same. The 25 big corporations of 1917 could charge high prices for mediocre products without losing customers and revenues, pay poor wages without losing workers and increasing costs, ignore the marketing strategies of their smaller competitors and the innovations of entrepreneurs, and grow and remain at the top of the economic pecking order year after year. But the lists are not the same. Of the 25 corporations in the 1917 list, 13 made it onto the 1957 list. Only seven—if we treat U.S. Steel and USX as the same firm—made it onto the 1986 list. Only 12 firms on the 1957 list made it to the 1986 list. Competition between corporations exists and is effective.

At the top of the 1917 list is U.S. Steel. When formed through the merger of eight large steel firms in 1901, U.S. Steel became the world's largest private business: it had a total capitalization of $1.4 billion and accounted for 65.7 percent of all steel sales in the United States. By 1917, U.S. Steel had assets valued at over $2.4 billion, more than four times the assets of Standard Oil of New Jersey (Exxon), the next largest corporation. But U.S. Steel's market share was down to 45 percent. Forty years later, U.S. Steel was only the third largest company and its market share was less than 30 percent. Today U.S. Steel is no longer U.S. Steel but USX, and has a market share in steel of less than ten percent, receives more revenue from petroleum than steel, and is number 121 in the list of the largest U.S. corporations, ranked by assets. The moral of the U.S. Steel story applies to all corporations: no firm is impervious to market competition.

Those who worry about the economic power of big corporations would do well to think about how it was those corporations got big. GM and the other members of the Fortune 500 did not achieve their status by exploiting consumers and workers. In 1994, GM earned $155 billion in revenues and employed 692,800 workers. A corporation does not collect $155 billion in revenues by persistently ripping off consumers and does not retain 692,800 workers by abusing them. How powerful are big corporations? Not nearly so powerful as the competition that keeps them in check. □

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THE FREEMAN
IDEAS ON LIBERTY

Virtual Liberty

by Matthew R. Estabrook

Free-market advocates often argue that individual liberty is necessary to ensure technological progress. Following the lead of such economists as F. A. Hayek, they contend that only a market system enables each of us to act on our own unique knowledge and to seek and find new ways of meeting society's needs. The freedom to compete, succeed, and fail yields constant discovery, improvement, and progress.

But while the importance of liberty to technological progress is well documented, the way in which such progress advances freedom is seldom noted. Yet technology is increasingly giving each of us more power—to make more choices and control more aspects of our lives. The Internet, in particular, provides a compelling example of how liberty and technology foster and reinforce each other.

About the Internet

Development of the Internet began in the 1960s as a project of the Defense Department's Advanced Research Projects Agency (ARPA), which envisioned a decentralized computer network capable of functioning even if parts of it were damaged by a nuclear attack. By the end of the 1970s, links developed between ARPANet and counterparts in other countries. The network expanded rapidly throughout the 1980s, when universities, research companies, and government agencies began to connect their computers to this worldwide net.

Today, what we call the Internet is a vast "meta-network" of 50,000 computer networks in 90 different countries. Thirty million people access the Internet through telephone lines and personal computers, send electronic mail, download computer software, buy products, and gather news and information. This number has been increasing by about 10 percent each month.

Although the Internet began as a government project, it has evolved far beyond its original design. In so doing, it has bolstered one of Hayek's principal arguments for freedom: complex orders may emerge without coercive central planning. No one planned the Internet as it is today, and no single body governs it. Yet there is order within the Internet's "consensual anarchy." In *Law, Legislation, and Liberty*, Hayek suggests that "society can only exist if . . . rules have evolved which lead individuals to behave in a manner that makes social life possible." No different are cyberspace societies. Certain rules of just conduct ("Netiquette") have evolved and become universally accepted—and are even explained in books on using the Internet.

Just as market interactions led to the development of rules in the absence of governmental regulation, market forces have also begun to address some of the problems that have emerged as the Internet has grown. Many have complained, for instance, that the Internet is too confusing

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for non-hackers to use productively. But getting on-line becomes easier each day and bookstores feature a large selection of how-to books, such as *Internet for Dummies*. On-line services like CompuServe now offer easy-to-understand interfaces. And an increasing array of software "search engines," sometimes called "spiders," is available for those who directly access the Internet.

A thornier issue is on-line pornography. How do parents insulate their children from offensive materials without infringing on the rights of others to disseminate or view it? Again, while politicians mull over the issue, the market is responding. Most popular on-line services, like America On-line and Prodigy, give parents the power to restrict their children's access to objectionable material. Software is in development to enable parents to identify and avoid offensive material. Without rules and regulations, the market process is discovering solutions to important problems.

In short, the Internet provides powerful proof that a complex, adaptive order can evolve without conscious design. In *Law, Legislation, and Liberty*, Hayek presents several examples of such "grown," or spontaneous, orders. In the world of nature, he cites crystals and snowflakes; both will develop under the proper conditions, but cannot be consciously created molecule by molecule. In human civilization, Hayek points to the emergence of language and currency. Both developed, unplanned, over generations. Yet these examples, while interesting, fail to convince many people of the feasibility of grown orders. After all, human beings are considerably more complex than the particles that compose snowflakes and crystals. How can we be sure that human beings, each of whom has unique motives and ambitions, will behave in an orderly fashion? The examples of language and money are no more persuasive; their evolution is so slow that we can scarcely perceive it.

The Internet, however, demonstrates that an order can develop not only in nature, but in human civilization. And it continues to evolve and adapt at an astounding rate in the absence of government regulation, let alone central planning.

The Internet and Freedom

The Internet's importance is not limited to illustrating spontaneous order in operation. The Internet, and technological development in general, enhances personal freedom by facilitating the spread of information and ideas. Throughout history, the free flow of information has led to significant social and political change. Johann Gutenberg's invention of movable type printing enabled ideas to be circulated widely and cheaply for the first time. This free flow of ideas was a critical catalyst for the Protestant Reformation. In the 1980s the desktop computer and fax machine played an important role in the process that led to the breakup of the Soviet Union. In 1995, *Time* magazine reported that Iran is facing a "potential revolution," now that Iranian scholars have gained access to the ideas of Shakespeare, Mill, and other Westerners through the Internet.

The Internet provides not only access to information and ideas, but the power to distribute them as well. Gutenberg's printing press reduced the costs of sharing information a thousandfold. Innovations such as the photocopier and desktop publishing have further reduced these costs, enabling even individuals to produce professional documents inexpensively. The Internet takes this information revolution even further; now, one doesn't even need paper to publish his ideas widely. Empowering people in this way has reduced the influence of the traditional media.

For years, information on world affairs came from a limited array of sources: the Big Three networks, a few national radio syndicates, and several large newspapers and news services. That has begun to change. Cable brought with it CNN and C-SPAN, and a host of other stations that cater to the varied tastes and needs of segments of the population. Talk radio has emerged as a new forum through which people can express their views. And now the Internet, with its

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host of real-time chat conversations, E-mail lists, and newsgroups, offers new ways for people to share information. In the words of *Wall Street Journal* editorial writer John Fund, "The Old Media will wind up on the scrap heap of history."

The Internet also allows each individual to choose his own community. Typically, when we think of community, we think of the people who live in our apartment building or neighborhood, but the Internet allows us to converse with whomever we please. Technology makes it almost as easy to communicate with someone in Japan as someone around the block. The Internet has therefore fostered the growth of new, virtual communities that are not bound by arbitrary physical borders, but by common interests, goals, and values. Internet communities can be as tightly knit as geographically based communities. For example, the Internet proved the only effective channel of communication between survivors of the Kobe earthquake in Japan and their friends and families around the world. In the United States, several pages emerged on the World Wide Web hours after the Oklahoma City bombing, documenting the destruction and offering help and support to those in need. And before the evening news had announced singer Jerry Garcia's death, word had already filtered through the Internet, to which fans turned for virtual support groups.

Information Age

Perhaps most important, the Internet is providing the means for ordinary citizens to subvert long-existing power structures, especially the taxes, tariffs, and regulations imposed by governments. In *Creating a New Civilization: The Politics of the Third Wave*, Alvin and Heidi Toffler contend that we are entering an age in which "information increasingly substitutes for bulk raw materials, labor, and other resources" and "knowledge-based technologies are reducing the need for capital per unit of output in a capitalist economy." As businesses rely increasingly on human capital (knowledge and information) and less on physical capital, tariffs become increasingly irrelevant. Likewise, entrepreneurs may establish banks and investment firms wherever the tax and regulatory burdens are least oppressive, and continue to serve customers anywhere in the world. At least one enterprise offers Internet users the opportunity to gamble legally on sporting events. Based offshore, it is not subject to the laws which forbid such operations in most of the United States.

Lofty purposes? Not always, but the Internet, by facilitating the spread of information, is restoring power to individuals to make choices that affect their own lives and undermining state interference in the process. How will governments respond to this rapid decentralization of knowledge and power? Perhaps they will be forced to compete with one another to create friendlier environments for trade. The result could be governments with simpler, less burdensome regulations and taxes. Some commentators, like *Wired* magazine contributor Jay Kinney, seem to believe that technology could make government more or less irrelevant. Kinney suggests that nationalism "will [come to] have the character—the strength and relative weight—of brand loyalty." This may not be far-fetched. After all, the state's regulatory machine is likely to run at least a step behind an adaptive spontaneous order that taps the knowledge of all its participants. That is a sight, no doubt, that Hayek might well have applauded. □

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THE FREEMAN
IDEAS ON LIBERTY

No, Fred, There Is No Free Enterprise—At Least Not Here

by Mark Ahlseen

Each passing year results in more government regulation and control over private sector production. It has become increasingly difficult for entrepreneurs to gain official approval to initiate and sustain an enterprise. Such impediments are a form of what Frederic Bastiat called legal plunder—when "the law takes from some persons what belongs to them, and gives it to other persons to whom it does not belong" or "benefits one citizen at the expense of another by doing what the citizen himself cannot do without committing a crime."

We typically think of businessmen as enthusiastic supporters of the free enterprise system, as are "efficient-production" entrepreneurs, who make their living by providing a better or cheaper product or service. But with the expansion of government has come a new type of entrepreneur. Increasingly, businessmen are the first to lobby government for protection from unfettered competition. Today's "rent-seeking" entrepreneurs have found it to be easier and less painful to seek government privilege than to compete. State assistance comes in various forms, such as direct subsidies, licensing/franchising, production quotas, and so on.

With the increase in federal spending and the expansion of governmental authority has come a corresponding increase in lobbying and other forms of political-profiteering. In 1947, there were 731 registered lobbyists in Washington, D.C. By 1985, this number had grown to 7,200. There has been a similar increase in Political Action Committee (PAC) contributions to congressional campaigns. These and other efforts are often directed at stifling the creativity of efficient-production entrepreneurs.

This phenomenon occurs at the state level as well. A recent example involved an acquaintance of mine (hereafter called Fred to protect the innocent) who lives in North Carolina. He wanted to begin a business that would allow him to spend more time at home with his wife and four young children. To this end, Fred planned to inaugurate "Autos by Owners." He would rent space in a parking lot on a weekly basis to individuals who were interested in selling their used automobiles. Potential buyers could quickly examine 50 to 100 vehicles at one central location. They then could call several owners to arrange test drives at a convenient time. Sellers would avoid endless telephone calls and visits to their homes. Owners could also arrange to meet three to four potential buyers at the same time.

This type of business is not new; it has appeared in other states. Consequently, Fred is not a visionary, but he is still an entrepreneur. He located a parking lot and arranged lease terms. He printed brochures. He investigated potential advertising media.

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He also checked North Carolina's Motor Vehicle Dealers and Manufacturers Regulations. Part d of paragraph (11) of Section I, A, 20-286 defines a motor vehicle dealer as someone who "offers to sell, displays, or permits the display for sale for any form of compensation five or more vehicles in any 12 consecutive months." But the code goes on to state that dealers must keep records of all titles that are transferred. This would be impossible for "Autos by Owners," since there would be no way for Fred to know which vehicles were sold or withdrawn from sale. He therefore faced a "Catch 22." Renting space for the display of vehicles defined him as a dealer. To be a dealer required him to transact titles. Since he did not transact titles he could not be a dealer. And since he could not be a dealer he could not start his business. His attempt to work with the state Department of Transportation to find a solution came to naught.

Fred received a decisive letter which, in typical bureaucratic understatement, explained: "While it is most unfortunate that you have invested monies to set up the type of business which you have described, I can only tell you that at this time, the General Statutes of North Carolina do not permit it."

Why should any state prevent this type of business? Obviously, it is the rent-seeking entrepreneurs of North Carolina who had the foresight to lobby legislators to include a 2-line sentence in paragraph (11). And who might these rent-seeking entrepreneurs be? A good guess would be the motor vehicle dealers of North Carolina who, rightly, view businesses such as "Autos by Owners" as an unwanted source of competition. In short, North Carolina's Motor Vehicle Dealers and Manufacturers Regulations code is legal plunder. However, the biggest loser in this situation is not Fred, but the consumers who must pay higher prices because their state does not allow genuine free enterprise in the automobile market.

This is just one of the many instances of government control over private enterprise. And it shows how very far we have to go before our society will be truly free. □

If you enjoy Mark Skousen's monthly column in *The Freeman*, you'll want a copy of **What Every Investor Should Know About Austrian Economics and the Hard-Money Movement.** In lively, jargon-free prose Professor Skousen maps out the case for gold and silver—and tells readers why economics is of enormous *practical* importance. He tackles business-cycle theory, the stock market, inflation and deflation, privacy issues, and much, much more in a fast-paced narrative. As he optimistically notes, "you'll definitely be ahead of the pack if you study and apply the principles of free-market economics as taught by Mises, Hayek, and Rothbard." **Bonus:** Names and addresses of 27 of today's top hard-money writers and invaluable suggestions for further reading.

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Nonessential Government

You might not have noticed, but the federal government closed down a while back. The sky didn't fall. The world didn't end. People didn't die in the streets. In fact, it was difficult to detect any difference outside the Washington Beltway before and during the two shutdowns.

Unfortunately, nothing has changed since then. The same number of Cabinet departments exist. Only a half dozen programs, such as the 18-person Administrative Conference, have been killed. And virtually every federal employee who was laboring before the so-called train wreck is back at work, issuing checks, drafting regulations, and otherwise limiting Americans' freedoms.

What is amazing—actually, it wasn't amazing, given how Washington works, but what should be amazing—is the failure of anyone to use the bureaucratic closure as an opportunity to initiate a serious debate over the role of government. What, pray tell, do three million federal employees do? Why do we need to ship $1.6 trillion, roughly 22 percent of the GNP, to Washington? How does the public benefit from subsidizing everything from beekeepers to big corporations to small liquor stores to foreign dictators to performance artists? Are the elderly really served by medical and retirement programs that are hurtling toward insolvency, threatening to take the rest of the budget down with them?

These questions would have been particularly timely since 800,000 government employees were deemed "nonessential" during the first shutdown. A sizable 42 percent of the personnel of affected agencies—the Agriculture and Energy Departments had been previously funded, while the Post Office relies on postal revenues, for instance—were sent home. The number deemed nonessential ran 99 percent at Housing and Urban Development, 89 percent at the Department of Education and White House, 83 percent at Treasury, 81 percent at State, 75 percent at the Labor Department, 72 percent at Interior, 67 percent at Commerce, 59 percent at the Small Business Administration, and 58 percent at the Department of Health and Human Services. If America could get along just fine without the bulk of the employees at all of these bureaucracies, then why bring them back?

Yes, yes, in the long term a few of these workers are really necessary—to process passports, for example. But the job of many Commerce Department employees is to hand cash to well-connected businesses. The Small Business Administration does the same thing, only to smaller ones. The Labor Department is little more than a political pay-off to unions. Housing and Urban Development helps enrich developers. And on and on. Not only are most of these jobs nonessential: they are downright harmful. Why, then, are these people still employed?

Mr. Bandow, this month's guest editor, is a Senior Fellow at the Cato Institute and the author of The Politics of Envy: Statism as Theology *(Transaction).*

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The Purpose of Government

If politicos in Washington won't start the debate, people outside the Beltway should. The first question voters should ask candidates is, what is government for? This matters, though no one in Washington thinks in those terms. In Congress the first question usually is, what do my constituents/favored interest groups/contributors want? That's why liberal doves like weapons constructed in their districts and fiscal conservatives support social spending in their districts.

The more sophisticated answer from the "anything goes" crowd is that government is to help people, provide opportunity for the disadvantaged, ensure equality, protect health and safety, etc., etc. All of these have the advantage of sounding desirable while being ambiguous enough to justify subsidizing almost anything.

The right answer should be to provide the framework of a free society, to perform those tasks that are necessary and can only be handled both collectively and coercively by government. That's all. These duties are important, indeed critical, but quite limited. No National Endowment for the Arts. No Commerce Department. No Energy Department. Obviously we can argue at the margin, but we should be able to agree: No endless soup line for the well-connected.

The second question might be: why the federal government? One need not have a fairy-tale view of states and localities to believe that where government is necessary, a decentralized system that allows experimentation is generally better. It is certainly preferable to a uniform and rigid policy emanating from Washington and binding 260 million Americans around a diverse nation. Consider education. It really should be a family responsibility in a private marketplace. But if government is going to get involved, why Washington? States and localities have little incentive to carefully spend "free" money from Uncle Sam; Washington usually ties lots of strings to its checks. The result has not been pretty.

Third, people could query their supposed representatives—what justifies taking a taxpayer's money? There are lots of theoretically good things that government, including the federal government, can do. Admittedly, there are some tasks that only it can, or at least will, do. But are such activities more important than what taxpayers would do with their own money?

This is a concept that some federal employees have difficulty understanding. During the shutdown a couple of Washington radio announcers were commiserating with furloughed federal employees when one bureaucrat called up and said: "people tend to forget that we're taxpayers, too." It *is* easy to forget, since federal employees remain tax consumers, even though they have to surrender a bit of their ill-gotten gains through "taxes." The people with the highest claim to the money remain those who actually earned it in the first place.

Last should come a practical query: can the government really do a better job providing whatever the product or service? Denizens of Washington hate to ask this question almost as much as they hate to deal with philosophical issues. It confuses them, rather like Soviet apparatchiks who must have wondered during Communism's collapse: "If the government stops making shoes, how will the people cover their feet? Whatever will people do?"

The same attitude pervades the nation's capital. Only the Food and Drug Administration protects us from another Thalidomide. (Actually, the FDA has killed literally hundreds of thousands of people preventing the sale of life-saving drugs and devices; a private concern like Underwriters Laboratory could serve as a more efficient tester.) Only Social Security stands between the elderly and poverty. (Alas, the system is rolling towards demographic and fiscal disaster. Relying on private IRAs would provide a much greater return to retirees without bankrupting workers.) And so on.

None of these would seem to be terribly difficult questions to ask. But during the prolonged budget "crisis" no one did—not the contending political leaders, not the

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mainstream media commentators. Instead, everyone assumed that what was must always be, with a few minor variations; even the "toughest" budget proposal envisioned a $300 billion increase in federal outlays over the seven years to balance the budget. And not even that plan did more than drop a handful of programs. For the most part, the issue was not whether a function was appropriate for Washington, but how quickly outlays should increase.

Unfortunately, government shutdowns don't occur very often. The only way we are likely to ever have a serious debate over what is really "essential" for government is if the American people demand one. □

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THE FREEMAN
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Cultivating Dissent: Wetlands Regulators Down on the Farm

by David J. Porter

To Robert Brace, drainage is as much a part of farming in Erie County, Pennsylvania, as are planting and harvesting. The topography and soil types in that part of Pennsylvania make drainage necessary for successful farming. Consequently, drain operation and maintenance is nothing new to Brace, a third-generation farmer who began cultivating his own fields at the age of 15.

In the late 1970s, Brace decided to rotate portions of his 140-acre farm from cow pasture into crop-bearing field. He began refurbishing the farm's drainage system, originally installed by his grandfather, which had become blocked by beaver introduced by the Pennsylvania Game Commission. Over the following years, Brace removed fenceposts, replaced old drain tile, and sidecast the silt collecting in the drain back onto the adjacent fields from whence it had come. By 1986, having completed the preparatory work, Brace was growing hay and oats. Business as usual, right?

Wrong. In May of 1987 Brace asked, as he had done before, the Pennsylvania Game Commission to remove the beaver from his farm. When the Commission's agent arrived at the Brace farm, he scanned the property and declared that it would "make a nice sanctuary" for wildlife. The agent then informed Brace that the field exhibited wetlands characteristics, and asked about his drain-refurbishing activities. Within days, several federal, state, and local bureaucrats descended on Brace's property unannounced and began excavating soil and plant species.

Soon thereafter, Brace received notices from the Environmental Protection Agency (EPA) and Army Corps of Engineers informing him that he had violated the federal Clean Water Act by discharging soil into a "wetlands" without first obtaining a government permit. The agencies ordered him to cease all activity on his field, which was now under their jurisdiction. Accordingly, Brace stopped all work except for occasionally mowing hay.

In 1990 the federal government sued Brace for his clearing and draining activities. As punishment, the government sought a court order requiring Brace to: (1) strip off his crops; (2) remove the drainage system; and (3) refrain from disturbing the site so that it could return to its "natural state." Brace also faced the threat of a penalty of up to $25,000 per day for each day he was in violation of the Clean Water Act.

Brace prevailed at trial. Given the importance of drainage for farming in many areas of the country, Congress had written an exemption into the Clean Water Act permitting the discharge of fill material into wetlands if such activity is performed in the

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course of "normal farming." The trial judge found that Brace's activities fit squarely within the exemption and dismissed the suit. In November 1994, however, the Third Circuit Court of Appeals reversed the trial court judgment. In June 1995 the U.S. Supreme Court denied Brace's petition for writ of certiorari.

The trial court is now considering how much in fines and what form of remediation to impose. The Clean Water Act's penalties accrue for each day of violation rather than for each violation, so Brace faces a potential fine of more than $50,000,000. While it is unlikely that he will have to pay anything close to that amount, even one percent—or $500,000—would be confiscatory. Moreover, the remediation scheme proposed by the EPA requires Brace to plug his drainage system with concrete. Because the farm's drainage system is integrated, this "remedy" would likely destroy Brace's entire 140-acre farm.

Multiple Ironies

U.S. v. Brace is peppered with ironies. The beavers that caused Brace's initial water problem were introduced to the area by the Commonwealth of Pennsylvania. Brace refurbished the farm's drainage system using plans prepared specifically for him by the federal Agricultural Stabilization and Conservation Service. When Brace was ordered to stop working in his field, he sought an after-the-fact permit—which the Corps refused, citing the pending lawsuit.

Unfortunately, Robert Brace's ordeal is not exceptional. Scores of property owners have litigated wetlands disputes against the government; some have ended up in prison. And for every person who goes to court over wetlands, there are many others whose well-laid plans have been frustrated by state and federal bureaucrats. But *Brace* is especially interesting as a case study of the real-world application of wetlands regulation.

What we know today as "wetlands" were once referred to as swamps and thought likely to spawn "bilious fevers" if not drained. Now, of course, virtually all wetlands are viewed as sacrosanct due to recognition of the positive ecological role they play in some cases. This change in perspective has been accompanied by an about-face in governmental policies toward wetland areas. While state and federal governments once encouraged and subsidized the draining and reclaiming of wetlands, now they require wetlands preservation.

The foundation of the federal government's wetlands protection policy is the Clean Water Act, and the regulations promulgated thereunder. The Clean Water Act forbids the unpermitted discharge of any dredged or fill material into "navigable waters," which is statutorily defined as "waters of the United States." EPA and Corps regulations further expand federal jurisdiction while restricting the farming exemption created by Congress. According to the Corps, for instance, navigable "waters of the United States" include "wetlands," defined as any ground that supports "vegetation typically adapted for life in saturated soil conditions."

The portion of Brace's property of interest to the government does not resemble a swamp, bog, or marsh. One can walk across the field without getting wet feet. Nevertheless, because courts are extremely deferential to agencies' expansive statutory interpretations, the Corps' counterintuitive definition of "navigable waters" placed Brace's field under federal control. Thus, taking a stroll across Brace's field is legally equivalent to traversing navigable waters of the United States.

Moreover, in Brace's case, government attorneys argued that he was not eligible for the farming exemption because: (1) his field was a wetland; (2) the land was not part of an ongoing farming operation; (3) his activity was not "farming"; and (4) even if Brace was engaged in farming (and therefore exempt), his activity was "recaptured" by a regulation prohibiting landowners from bringing their property into a use in which it was not previously engaged.

Despite the fact that Brace and his ancestors never conducted any activity on the farm *except* farming, the government argued that he was not entitled to Congress's farm-

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Robert Brace (center) and his sons, Ronnie (left) and Randy.

ing exemption because his field was not part of an ongoing farming operation. Rather, the government contended, Brace's activity merely brought the site *into* farming use. No matter that pasturing livestock and growing crops are both archetypal farming activities: the government argued successfully that even if the field was previously part of an established farming operation when it was used for pasture, it lost farmland status in 1978 when Brace began preparing it for crops. The trial court commonsensibly considered Brace's activities in light of the history of the Brace homestead farm, and in the context of normal farming practices in its vicinity. By contrast, the court of appeals measured Brace's activity solely against regulatory definitions of "farming" and "ongoing farming operations," which entailed an unduly narrow definition of farming. As a result, federal bureaucrats and judges have ended up dictating to farmers what does and does not constitute "farming."

The government's final argument was that even if Brace's field were part of an "established farming operation," he lost his exempt status by interrupting and then "resuming" his farming operations. The government contended that the site became something other than farmland the moment Brace stopped using it as pastureland. By planting crops, the argument ran, he brought the area into farming use once again, but by then it was too late, for the Corps' "recapture" regulation made his activity nonexempt. In short a farmer cannot interrupt his operations lest he risk losing his legal right to continue in the future.

Presumably Congress recognized the problem of imposing unreasonable burdens on the many farmers across the country whose normal farming activities, specifically including drainage, would otherwise subject them to wetlands regulation, which is why it wrote the farming exemption into the Clean Water Act. As Senator Edmund Muskie noted in 1977, the permit requirements of the Clean Water Act had become "synonymous with federal overregulation, overcontrol, cumbersome bureaucratic procedures, and a general lack of realism." The farming exemption was Congress's attempt to mitigate those problems; however, environmental bureaucrats have eviscerated that Congressional intent.

Debates over environmental regulation often center on the expected public costs and benefits of particular legislative proposals. But the story of *United States v. Robert Brace* is a poignant reminder that such regulation, whatever the supposed cost-benefit ratio, erodes freedom and undermines independence. "Regrettably," says Robert Brace, "I've gotten to know the ways of the legal, legislative, and judicial systems since I got into this snarl. They aren't much help to ordinary citizens like me. We're simply overwhelmed by raw government power."

Wetlands reform bills are currently moving through Congress and Pennsylvania's General Assembly which would, among other things, categorize wetlands according to their relative value and function, strictly define wetlands so that they are more easily recognizable to ordinary landowners, and require compensation for individuals whose property has been adversely affected by regulation. Such measures are a step in the right direction, but they will likely be too little and come too late to save the Brace family farm. □

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THE FREEMAN
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Is Social Security Pro-Family?

by Daniel Lin

Whenever politicians fear that the public believes a program has outlived its usefulness, they re-categorize it to make it seem relevant. How else could worthless vanity projects become "jobs programs"? And minimum-wage laws that make unskilled workers too expensive to hire be called "poverty fighters"? Now leaders of both parties routinely drape a "pro-family" mantle over any government folly which they desire to protect. For instance, Social Security is being promoted as perhaps the government's most sacred pro-family program.

The reasoning is simple: poverty destabilizes the family, so a program that alleviates poverty must be pro-family. By guaranteeing a retirement income for every worker, Social Security keeps the elderly out of poverty. In addition, Social Security supposedly offers working adults relief from the emotional and financial burden of supporting elderly parents. What could be more pro-family than government using its enormous power to take care of Mom and Dad for you?

Such thinking shows a fundamental misunderstanding of the role of the family in society. A family is more than just a group of people—it is a vital social and economic unit, distinguished from other human institutions by the responsibilities members have toward each other. For example, breadwinners have a duty to provide for themselves and their families. Parents and children have the responsibility to care for each other. Encouraging the fulfillment of these private obligations is the only way to fortify the family. In contrast, giving such responsibilities to government drives a wedge between family members and weakens the ties that hold them together. Thus, Social Security, by seemingly relieving individuals of their responsibility to care for their elderly parents, is profoundly anti-family.

Social Security's anti-family bias is not limited to its effect on responsibilities. Its funding mechanism, the payroll tax, also greatly burdens families.

The total tax may not have been onerous at Social Security's inception, when the combined employee-employer share was two percent, but since then have come 22 tax increases. A majority of families now pay more in payroll taxes than federal income taxes. Of course, there are no exemptions or deductions to the payroll tax—the "pro-family" program feeds the government before it feeds a worker's family. Thus, despite its appearances, Social Security really doesn't eliminate the financial burden of caring for one's parents; it merely disguises it.

"Share the Burden"

The problem is not solved by dividing the total payroll tax between employers and workers. Politicians argue that this policy is "fair" because it makes employers "share the burden" of financing their workers' retirement. But government is unable to

Mr. Lin, a graduate of UCLA, wrote this article while an intern at the Institute for Research on the Economics of Taxation.

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make employers play Santa Claus, whatever legislators may hope. The payroll tax is in effect an excise tax on work, both discouraging job creation and depressing wages. When government raises the cost of hiring a worker, employers are forced to offer lower wages, employ fewer workers, or go out of business. The employers' "share" is thereby passed on to the workers.

Nevertheless, for years the system seemed to work. But the number of people available to support each retiree has been steadily falling, going from 16 workers per retiree in 1935 to three workers today. Within 30 years two employees will be supporting each retiree. So much for Social Security "saving" the average couple from the burden of providing for their parents.

The Impact on the Elderly

In the end, the biggest losers are the elderly, who are supposedly being cared for. Families form and prosper because survival and happiness are more likely to occur among people who love and care for each other. Socialized care offers none of these advantages. Instead, it places responsibility for the elderly on the general population, which cares nothing about anyone's individual well-being.

Moreover, socialized care is inevitably politicized care. Instead of individuals making private decisions about their own families, retirement care is shaped by political horse-trading. Politicians must sort through campaign promises, balance pressures from special interests, and assess the level of taxes that workers are willing to bear. Throwing the well-being of the elderly into this messy political arena is not pro-family. After all, true retirement security should not hinge on the next taxpayer revolt or the well-rehearsed promises of politicians.

Perhaps most strikingly, Social Security's tremendous effort to redistribute wealth across generations leaves the elderly worse off than if they had invested their payroll taxes privately. If the average 20-year-old

worker pays $1 in payroll tax, he or she can expect to receive $1.70 in real (after inflation) Social Security benefits by age 70. Based on past returns, that same dollar invested in stock mutual funds over the same period would have swollen to *$32*. By forcing workers to pay into what amounts to a sucker's investment, Social Security is exacerbating the burden it is supposed to alleviate.

Is Social Security pro-family? Only if increased unemployment, depressed wages, higher taxes, and forced participation in a bankrupt system help the family. A true pro-family policy would remove these barriers, encourage work, and allow individuals to invest their own money. A government concerned about stable families would not come between adults and their elderly parents. Given the government's track record at developing programs that strengthen the family, the best pro-family policy would probably be to restrain the desire of politicians to make policy pro-family. □

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THE FREEMAN
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Increasing Access to Pharmaceuticals

by Doug Bandow

The collapse of the campaign to essentially nationalize America's health-care system put a political stake through the heart of proposals to solve medical problems with new bureaucracies and more regulations. Health care remains a problem, however, because costs continue to rise and access remains restricted for many elderly and poor patients. Thus, we must continue looking for answers, only from a different direction—choice, competition, deregulation, and privatization.

Applying these principles to prescription drugs and medical devices would be particularly beneficial for Americans. Today the Food and Drug Administration (FDA) both discourages the development of new pharmaceuticals and medical products and increases their cost. Simply relaxing Washington's bureaucratic stranglehold over the drug and device marketplace would be a useful first step. Even more advantageous would be reconsidering the role of the FDA itself; Congress could turn the agency into a certification rather than an enforcement body, for instance. The result would likely be improved medical treatment, less patient suffering, and lower health-care costs. Everyone, except, perhaps, a couple thousand federal bureaucrats, would gain.

Doug Bandow, guest editor for the February Freeman, *is the author and editor of several books, including* Reforming Medicine Through Competition and Innovation *(John Locke Foundation).*

Benefits of Pharmaceuticals

The wide availability of even expensive drugs has helped ameliorate and cure disease. Pharmaceuticals conquered a number of deadly conditions, such as tuberculosis; tranquilizers and polio vaccines offered similarly dramatic benefits. In this way, drugs contributed to the increase in life expectancy from 54 in 1920 to more than 75 today.

Prescription drugs have also reduced total medical expenses, because pharmaceuticals often replace far more expensive medical operations and treatments. Actigall, for instance, dissolves gallstones, and thereby saves an estimated $2 billion annually *because* 350,000 patients use it. The beta-blocker Timolol reduces the number of second heart attacks by 16 percent and also saves about $2 billion every year. Anti-asthma drugs save $3 billion a year by cutting emergency room visits and hospital admissions. Drug therapy for ulcers costs about $900 annually, compared to $29,000 for surgery; the yearly savings also runs about $3 billion. Even where a procedure, such as bone marrow transplants, remains necessary, pharmaceuticals can cut overall treatment costs by $40,000 a patient.

The potential for even greater savings from pharmaceuticals has been masked by

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the larger problem of third party health-care payment, through Medicare, Medicaid, and tax-induced comprehensive private insurance. The fact that patients directly pay only a small share of their medical expenses has bloated demand for health services. But since coverage of pharmaceuticals under such programs is generally limited, the system encourages reliance on more expensive, alternative treatments, like hospitalization and surgery. Analysts Gary and Aldona Robbins figure that a consistent reimbursement scheme would increase drug outlays by 45 percent but cut hospital expenditures by one-third. Overall, health-care spending would fall $85 billion.

Unhealthy Status Quo

Even worse, federal policies have directly raised the cost of prescription drugs and medical devices and discouraged development of products that would save lives and lower overall health-care costs. In the name of safeguarding the public from harmful drugs, the Food and Drug Administration has been protecting the public from useful drugs as well.

The problem is two-fold. First, the FDA's power is excessive: drugs cannot be released until the agency has certified not only their safety, but also their efficacy. Such delays occur not because the $1 billion agency is underfunded, as it often claims, but because it tries to regulate far too much. The agency has been empowered to monitor pharmaceutical safety since 1938 but performed its duties relatively expeditiously until 1962. Then Congress, after thalidomide use abroad generated birth defects, empowered the FDA to certify effectiveness and control the clinical testing process. Why legislators did so remains obscure, since the problem with thalidomide was that it was unsafe, not that it didn't work. To the contrary, patients used it *because* it was an effective sedative. Nevertheless, in the words of analysts Henry Grabowski and John Vernon, the legislation effectively shifted "primary decision-making authority in pharmaceuticals from market mechanisms to a centralized regulatory authority."

Lengthening Time Lag

Unfortunately, the seemingly purposeless requirement that firms demonstrate efficacy—companies have no incentive to sell, doctors have no incentive to prescribe, and patients have no incentive to buy ineffective products—further lengthened the time necessary to win approval of new drugs. By 1967 the average review time for a drug application had more than tripled. Congress's bias towards regulation exacerbated the agency's natural bureaucratic tendency to be risk averse: to approve a drug that proves either ineffective or harmful will harm one's career far more than holding up approval of efficacious, potentially life-saving products.

Which naturally leads to the second problem, that the FDA has created an unnecessarily cumbersome and expensive regulatory process. Drug development costs, which now average $427 million, more than doubled between 1963-1975 and 1970-1982. Much of this expense is due to the federal drug approval process—indeed, it has been estimated that the FDA may as much as *double* the cost of new drug development.

Such an expensive process would be burdensome enough for any industry. But the pharmaceutical business, dependent as it is on finding a few gushers in a field of dry holes, suffers disproportionately from FDA-induced delays. The result of overregulation, then, is not only to reduce drug research, but also to encourage the diversion of resources into unregulated efforts—non-R&D expenditures, such as promotion, or R&D overseas—in what the Progress and Freedom Foundation calls "approval arbitrage."

Disincentives to Drug Development

The result of all of these factors has been to discourage new drug development in the United States. The domestic rate of intro-

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duction of new compounds dropped sharply and America fell behind other nations. Up through 1965 the United States led Great Britain on the introduction of new drugs. Between 1966 and 1971 Britain enjoyed a 15-month lead. Of 98 drugs introduced between 1962 and 1971 in only one nation, 77 were available in Britain. The FDA apparently was not unaware of this problem: in 1972 the agency attempted, unsuccessfully, to transfer an employee out of its cardio-renal-pulmonary products division because, reports one FDA official, the division had "approved no new chemical entities . . . from 1968 to 1972, an experience that contrasted with the experience of every other medically modern nation and with the experience of other divisions of the FDA." Between 1977 and 1987, of 204 new drugs introduced in America, 114 were sold first in Britain. Of Britain's 186 new drugs, only 41 were first introduced in the United States. America's time lags were greatest for drugs used to treat some of the deadliest diseases: cancer and cardiovascular cases. Eighteen of 20 drugs approved in the U.S. in 1988 had been available for an average of six years in other nations.

By the 1990s, total approval and development times ran 100 percent and 75 percent, respectively, higher in America than in other industrialized states. Of 150 new drugs and vaccines approved by the FDA between 1990 and 1994, 61 percent were available first overseas. Almost half of the latter, 40 different compounds, were considered to be important by the FDA. On a head-to-head basis America increasingly lagged behind other industrialized states.

Suffering People

The consequences of the FDA's bureaucratic dithering are serious: people suffer and die. Real people, most of whom are not represented in Washington and who remain largely invisible. And tens of thousands of them. Argues Robert Goldberg of Brandeis University:

> By a conservative estimate, FDA delays in allowing U.S. marketing of drugs used safely and effectively elsewhere around the world have cost the lives of at least 200,000 Americans over the past 30 years. That figure does not include deaths that might have been prevented by the use of drugs such as Prozac, which is associated with the decline in suicides of individuals suffering from depression.

Consider just some of the agency's casualties:

- Families with a member suffering from Alzheimer's disease were frustrated by the government's refusal, for seven years, to authorize the use of the drug THA, long available in other nations, despite evidence that it helped four of ten patients who took it.
- The agency's delay in allowing sale of the beta-blocker practolol probably cost 10,000 lives a year. Dr. William Wardell complained that "the FDA's B-blocker policy has set back cardiovascular therapy in this country by years," diverting research from new advances to re-examining settled questions.
- Agency delays in bringing propranolol, a beta-blocker for use in treating angina and hypertension, to the U.S. market may have cost 100,000 lives.
- The FDA's two-year delay in approving streptokinase, which sharply reduces death rates after heart attacks, probably cost 22,000 lives.
- Even more bizarrely, the agency dithered over TPA, found to be more effective than streptokinase. The drug was available in eight nations, including Austria, France, Germany, and New Zealand, but not America. *Science* magazine complained that the FDA had "not only egg on its face but blood on its hands."
- Scores of thousands may have perished from the non-availability of the anti-bacterial drug Depra.
- The FDA delay in approving Interleukin-2, for use in combatting once untreatable metastatic kidney cancer, probably left 3,500 patients dead. The drug was available in nine European nations before America.
- Between 8,000 and 15,000 people probably died waiting for misoprostol, a drug to prevent gastric ulcers. The drug was first

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available in 43 other countries, some as early as three years before the FDA's approval in December 1988.

• Equally costly was the delay in bringing anti-AIDS drugs, such as AZT, which slows the advance of the disease, and ganciclovir, which reduces the incidence of blindness, to the market.

• The agency held up approval of Clorazil, useful in treating schizophrenics. As a result, as many as a quarter of a million people suffered despite the product's availability for 20 years in Europe.

• Even more people suffered and continue to suffer moderate inconvenience from lack of access to other drugs—anesthetics, antibacterial compounds, vaccines, asthma medications, and many others.

Medical Devices

Manufacturers of medical devices face similar problems as drugmakers. These products are often far more expensive than pharmaceuticals, but offer enormous benefits to patients—like a noninvasive, virtual-reality colonoscopy. Alas, band-aids, nuclear magnetic resonance machines, and more than 40,000 other products come under the purview of the FDA. The agency also controls changes in existing products and even the manufacturing process, treating everything like a new product.

Although federal rules are allegedly intended to serve health purposes, Robert Higgs of the Independent Institute observes: "Medical device regulation in the United States during the past 30 years has been driven mainly by political forces, especially by the reaction of members of Congress and FDA officials to shocking or scandalous revelations widely disseminated by the news media." Decades after Congress broadened the agency's authority to devices, the FDA had yet to finish setting standards to categorize products by riskiness.

The FDA dawdled as huge application backlogs developed. The number of approvals fell steadily from 1989 to 1992, before rebounding slightly in 1993. The number of so-called 510(k) applications, for the simplest products, pending before the FDA for more than 90 days, rose from two to 713 between November 1991 and 1992. The average review time jumped by 60 percent, to 141 days, hitting 200 days in early 1993 and 216 in 1994, before dipping to 185 in early 1995. Approval times for more complex goods exceed two years, running at 823 days in 1994. Some reviews take even longer, compared to an average of six to eight months in Europe. Naturally, the FDA's response two years ago to criticism was to *tighten* its controls. Only after the 1994 election did the FDA make a concerted effort to reduce approval backlogs.

Ultimate Victims

The ultimate victims of stifling FDA bureaucracy again are patients. New and improved medical products would enhance people's lives in a number of areas, ranging from heart and coronary disease to ligament repair. Tens of thousands of lives could be saved; millions of people could enjoy a higher quality of life; billions of dollars could be saved. Unfortunately, federal regulation stands in the way of these advances.

Among the products delayed by the FDA are the Cook intracoronary stent, Heart Technology rotablator, and Interventional Technology atherectomy device, all recommended by a physician's advisory panel. Dr. Richard Cummins, head of the American Heart Association's emergency treatment committee, points to at least 1,000 unnecessary deaths from the agency's hold-up of the shipment of Physio-Control (heart) defibrillators, which had already been approved for sale. An implantation coil for treating benign prostate swelling is available in Europe but not America. The Ambu CardioPump may increase the chances of surviving for a heart attack victim by 10 percent to 50 percent; manufactured in Denmark and available around the world, including Austria, where ambulances are required to carry it, and Chile, the device is banned by the FDA in America. Unnecessary deaths are probably running between 2,000 and 7,000 annually. Complains one analyst, it

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Machiavellian Politics

The morality of an action depends upon the motive from which we act. If we deny ourselves for the benefit of a needy person, we may experience the joys of charity. If we seek to impress our friends, we may act from ostentation and pride. If we seize income and wealth from some people and share the take with other people, we engage in Robin-Hood plunder. If we hasten to proclaim the giving to the world and expect to be rewarded with public acclaim and election, we are in politics.

Politics is a term of many meanings and diverse connotations, referring to the art of political administration, the policies, goals or affairs of a government, the methods or tactics involved in managing an association, and many other activities. Wherever there is government, politics makes its appearance. It is found in democratic societies as well as absolute monarchies and the most ruthless totalitarian states. In the latter the dictator is the sole politician; he dispenses spoils and privileges and metes out exaction and punishment according to his discretion. In a democracy every citizen has the legal right to participate in politics. Politics is a game in which prizes are distributed and burdens are imposed according to skillful use of pressures and counterpressures. Importunity may prevail over reason, expedience over evidence, and power over justice. Many politicians practice their craft according to rules and principles formulated by Machiavelli.

Niccolo Machiavelli was an eminent Italian author and statesman who in his best-known work, *The Prince*, described the means by which government may gain and maintain its power. His "ideal" government was ever scheming and calculating about political gain and authority. Machiavelli's persuasion differed materially from that of earlier writers: he rejected the ideal and moral and preferred the real and practical. He allowed the conclusion that politics has nothing to do with morals, ethics, and religion, and that it is incapable of observing all the rules of Judeo-Christian morality.

In the footsteps of Machiavelli many American politicians seek to gain the support of the electorate by any conceivable methods. They chatter, coax, and cajole, and if this is ineffective, they pretend, deceive, and promise the world. Promises are useful things, both to keep and, when expedient, to break. Since people are taken in by appearance, politicians appear devout and loyal; yet, in political theory, it is better to be a clever winner than to be a devout loser. Indeed, many American politicians are instinctively Machiavellian, denying the relevance of morality in political affairs and holding that craft and deceit are justified in pursuing and maintaining political power.

The Machiavellian inclinations of many American politicians seek and find intellectual support from the people who would make government the arbiter of economic life. Many academics would

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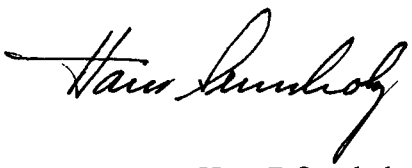
place politicians and their appointees, government officials, in the center of the social and economic order, directing and regulating the production process, fixing prices and "redistributing" income. Once in power and at the levers of political control, Machiavellian politicians are likely to serve their own selfish ends. They seek success by saying what people believe, or can be made to believe, rather than what is demonstrably true. They think of the next election, rather than of the next generation. They look for the success of their party rather than that of their fellowmen. They grant benefits and confer entitlements to the most numerous class of voters, who in turn, pledge their votes for election and reelection. At the same time they impose financial burdens on less numerous classes of citizens who can be ignored at the polls.

Posturing as concerned patriarchs, politicians guide and direct their electorates to the benefit and entitlement troughs. They publicly defend the troughs and loudly cheer the imbibers. Many champion the cause of senior citizens who, in American political life, are first in line. Others plead for special favors for racial and ethnic minorities, for women, workers, farmers, and many others.

Unfortunately, it is not in the power of government to make everyone more prosperous. Government only can raise the income of one person by taking from another. The taking and giving are not even a zero net game; they require an elaborate apparatus of transfer that may consume a large share of the taking. Both the giving and the taking may adversely affect the productive efforts of both the beneficiaries and the victims; but even if they were robots and should remain unaffected by the process, the cost of the transfer apparatus alone would substantially reduce total economic well-being.

The transfer process does not follow a coordinated policy of income transfer. Each department and agency of government pursues its own policy against the endeavors of the other departments and agencies. The Department of Labor seeks to raise wage rates and to lower living costs; the Department of Agriculture labors diligently to reduce agricultural production and raise food prices. Similarly, the Department of Commerce endeavors to reduce foreign imports and raise goods prices. The Department of Housing and Urban Development seeks to provide low-cost housing; both the Department of Labor and the Department of the Treasury significantly boost housing costs. The former imposes costly labor regulations, the latter levies taxes on housing and thus raises housing costs or indulges in deficit spending that deprives the loan market of needed funds and raises mortgage costs. One agency of government accuses big business of monopolistic tendencies, but others create public monopolies of their own and bring about conditions that invite monopolistic practices.

The various departments of government are vocal advocates of special interests and bitter enemies of the common interest. In its own way each department promises to provide benefits to its charges at the expense of all other people whom they do not represent. All departments together labor diligently to boost living expenses and lower levels of living. But above all, they all contend for and live the ways of Machiavellian mores which set politicians and government officials free from the code of morals that governs private conduct.



Hans F. Sennholz

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Edmund Opitz, an ordained Congregational minister, founded The Remnant (a fellowship of conservative and libertarian ministers) and The Nockian Society, is a contributing editor of *The Freeman*. He served as a member of the senior staff of FEE from 1955 until his retirement in 1992. *Religion: Foundation of the Free Society* is vintage Opitz, graced with his elegant style, subtle wit, and gentle erudition.

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is as if the agency put up a sign that said "Do not resuscitate."

Diabetics are waiting for approval of a noninvasive glucose sensor. Laser technology to remove corneal scars, available in 35 other nations, languished as the FDA's ophthalmology panel met only once in 1992, failing to even consider Summit's request for U.S. approval. Pediatric oxygenators are also available overseas, but not in the United States, because the small demand does not justify the expense of complying with FDA rules. The agency has seized an over-the-counter pain reliever, the Lido Pain Patch, even though its dosage of lidocaine is within FDA-approved levels. Dr. David Benditt, a medical professor at the University of Minnesota, criticizes "an FDA-instigated, several-year delay in the approval of transvenous implantable defibrillators for preventing cardiac arrests caused by ventricular fibrillation [which] has resulted in numerous patients being unnecessarily subjected to open-heart operations, with the inevitable risks and mortality." The agency blocked the use of specialized baby ventilators, later backing down only after protests by physicians. A portable heart pump, manufactured in America, is available in Germany but not the United States.

On dubious evidence the FDA helped kill the market for silicone breast implants, ignoring the anguish of many female cancer patients. The Inventive Products Sensor Pad, a diagnostic test for breast cancer (which currently kills 46,000 a year), remains unavailable though produced in Canada for nine years and sold around the world, including in Japan. The FDA classified a simple "cap card" to recap needles with one hand as a Class III (potentially life-threatening) device; two years and $30,000 dollars later, the product remains unapproved. Richard Worland's bipolar shoulder implant, developed in 1990, was approved by ten nations within two months, but remains unavailable here. Worland, who suffers from rheumatoid arthritis, may have to go to England to have his own invention implanted. FDA enforcement actions against established products, such as infant jet ventilators and muscle stimulators may be responsible for hundreds or more avoidable deaths.

Reform Alternatives

The case for reform is compelling. At the very least FDA decision-making should be streamlined. Another option would be to move towards the more decentralized system employed by the European Union. Even better would be to restrict the FDA to monitoring safety, leaving the question of effectiveness to patients and medical professionals. After all, pharmaceutical companies are not interested in promoting ineffective drugs; doing so would hurt sales and receive quick punishment by the marketplace.

Perhaps the best and simplest option would be to strip the FDA of its power to prohibit the introduction of new drugs. Suggests Sam Kazman of the Competitive Enterprise Institute:

> There is, however, a simple way to preserve FDA's criteria while eliminating the deadly costs of the current regime: change FDA's veto power over new drugs to a system of certification. Let the agency continue to review safety and efficacy, but allow unapproved drugs, clearly labelled as such, to be available by prescription.

Such a system could allow patients, doctors, hospitals, and insurers to decide upon the use of pharmaceuticals and devices based upon a balancing of risks and costs in a competitive certification system, with testing performed by entities ranging from the FDA to Underwriters Laboratory, which currently sets 700 product standards, tests more than 16,500 types of products (and a total of 76,000 goods), and issues six billion UL marks. Indeed, 60 percent of pharmaceutical purchasers today are corporate enterprises, like HMOs. They could choose to rely upon FDA or foreign approval, private endorsement, industry recommendations, or whatever. And health-care providers could vary their decision based on the seriousness of the disease or condition being treated. Normal malpractice and product

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liability laws would apply. Making pharmaceutical purchases a private decision would not be a jump into the unknown. As Kazman points out, the "FDA, after all, does not approve surgical methods, yet we do not worry about podiatrists doing in-office brain transplants."

Paternalism remains a powerful influence in Washington. But it is time for patients and doctors, insurers and hospitals, pharmaceutical firms and device manufacturers, senior citizens and healthy young people to together say "No more." For years the system has seemingly "worked" despite stultifying regulation: highly competitive American firms have led the world in the discovery and marketing of new treatments and cures. But so much more could have been accomplished, and the U.S. government continues to put arbitrary roadblocks in the way of developing, testing, and marketing new drugs and devices. For too long too many people have unnecessarily suffered and died because of the FDA. □

Freedom, Militias, and the Violence Inherent in the System

by K.L. Billingsley

Political violence is a serious subject, and since the Oklahoma bombing many pundits have portrayed the nation as near a takeover by crazed, cabbage-patch commandos. But the key to the militia phenomenon may be found in a form of analysis once popular on the Left.

This has been the century of political violence. From Lenin to Fidel Castro to the *Sendero Luminoso*, an alphabet soup of militants, most of them Marxist-Leninists, gained or attempted to gain power through the barrel of a gun. But many comfy North Americans hesitated to indulge in blanket condemnation of such actions.

Instead, they issued impassioned pleas to consider the "root causes" of violent revolution. The *Sendero*, FLSN, FMLN, NPA, and other groups, one was assured, were not committed to violence and terrorism as such. Rather, generations of abject poverty and oppressive government drove them to it. The guerrillas were simply responding in kind to "the violence inherent in the system." The real perpetrators and abettors of violence, according to this view, were those who hoped for gradual nonviolent change within the system.

The root causes of poverty and oppression, spokesmen of the Left said, were what U.S. policy needed to address. Otherwise the nation would only be "putting band-aids on cancer," and even making the situation worse.

Another analysis popular with the religious Left was "structural evil." The violence of revolutionary movements was linked not with the imperfections of human nature but social and political structures

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such as military government, capitalism, and patriarchal religion. Structural evil, the Left contended, required a structural solution, and those who thought otherwise were guilty of collaborating with the forces of evil.

The United States, with its capitalist economy and alleged long record of slavery, racism, pollution, and mistreatment of native peoples, was also a target for criticism. If one wasn't a part of the solution, Black Panther Eldridge Cleaver once said, one was part of the problem. Commentators of the Left, while denouncing violence, urged ordinary citizens to understand the deep injustices that motivated the rebels.

But the same people now appear to be applying a different standard to the militias.

Not only did the Left, correctly, refuse to excuse the Oklahoma City bombing. It also failed to consider root causes. Yet most militia members, unlike communist revolutionaries, have never actually used violence. Rather, some Americans—even a few African-Americans—worried that their freedom is coming under attack, have been dressing up in camouflage and training with weapons. When these militia members appeared before Congress to plead their case, liberal representatives and reporters treated them like dangerous crazies. Where was the willingness to ask the right questions? The answers do matter.

Endangered Liberty

What changes in American society could have driven these people to act this way? In Washington the spokesmen for the militias said it was the continuing encroachment of the government into private life, to a point that liberty and sometimes life are in danger. Here the militias are not shooting blanks.

Rare is the observer who will defend government actions at Waco, Texas, or Ruby Ridge in Idaho. But in supposedly progressive California, agents on a drug raid shot dead Donald Scott, a man who had refused to sell his land to enlarge a nearby park. A Ventura County sheriff conceded that the acquisition of Mr. Scott's land was part of the motivation for the raid, which turned up no drugs. An immigrant farmer found himself hounded as a felon, fined a huge amount, and had his tractor impounded for unknowingly running over some rats. Such horror stories are far from rare.

Could some sort of "structural evil" be at work in such cases? Could it be that doctrines such as asset forfeiture have pushed some federal agencies to extreme behavior? Could the exaltation of animal rights over human rights actually be built into the system in certain cases?

If such root causes exist, then it won't do simply to vilify those who feel threatened by lumping them in with genuine extremists, racists, and bomb throwers. Those are the groups that demand the attention of our law enforcement agencies, not peaceful citizens who happen to strike the agencies as odd, and who cling tenaciously to their rights and freedoms. And the real extremists, it might be noted, are hardly the "right-wing" groups of media legend. By their own admission, they are a breed of national *socialists* and their rhetoric centers on class warfare, not citations from free-market economists.

Instead of spinning conspiracies, perhaps the time has come for our policymakers to take a cue from the Left, focus on the root causes of militias and eliminate the violence inherent in the system. A structural problem requires a structural solution akin to the one that ended the Cold War: the abolition or rollback of the institutional arrangements that threaten freedom, and their replacement with ones that maximize freedom within the framework of a moral, democratic, and pluralistic society. □

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Photo: Sherry Syphard

. . . Paved With Good Intentions

Have you ever wondered why so many modern liberals seem to be immune to reason and evidence? Why—despite the disastrous consequences of their various policies—they remain intractably loyal to the same courses of action, and undyingly committed to repeating the same mistakes?

Well, could it be that the real-world consequences of their policies aren't even *important* to many statists? That they are pursuing their pet policies, not for any *practical* objectives, but for *psychological* ones?

Consider, for example, the reasons recently set forth for sending American troops to "keep the peace" in Bosnia. It was an instructive episode—not in understanding international affairs, but in clarifying the motives that underpin the policy prescriptions of collectivists.

The idea that our nation's "vital interests" are at stake in the outcome of a civil war in an obscure part of Europe is ridiculous on its face. Likewise, the argument that America's "credibility" would be damaged by not fulfilling our international peacekeeping "commitments" to NATO, simply begs the question: why are we *making* open-ended commitments of our troops to international peace-keeping missions in the first place?

But another reason was advanced—not a practical one, but a "moral" one. Slaughter of innocents was occurring in Bosnia, said the proponents of intervention; and stopping that slaughter was "the right thing to do."

In one national poll Americans indicated that they found all of the "practical" arguments unpersuasive—but not this "moral" one. A slim plurality felt that our intervention was morally right.

Thus, American soldiers have once again been dispatched, at great risk, to intervene in a distant land. They are being sent *not* because of any rational argument, *not* because of any vital interests of ours at stake. They are being shipped off because such a mission makes a certain portion of the public, and liberal policy-makers, *feel morally self-righteous.*

These thoughts arise as I am reading Thomas Sowell's thought-provoking new book, *The Vision of the Anointed.* Whatever quarrels I may have with Dr. Sowell about his own "tragic vision" of the human condition, I nonetheless commend the volume to those who wish to grasp the psychological motives underpinning liberal policies.

Dr. Sowell makes the same basic point that I did in a March 1987 *Freeman* essay, "The Morality of Good Intentions." The subtitle of his book is: *Self-Congratulation as a Basis for Social Policy.* That is, the

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real-world consequences of their policies are far less important to many statists, than *how the advocacy of such policies makes them feel about themselves*. Simply put, "*intentions* [are] the touchstone of the vision of the anointed."

This point moves us, of course, away from the factual realm of rational analysis, and into the murky world of motivation. Under most circumstances, such a journey ought to be avoided. Issues should be argued on their own logical merits. Switching the arguments to the motives of the proponents of each side invites *ad hominems* and subjective speculation.

But suppose one has *exhausted* rational argument? Suppose that, in the face of uncontested refutations and overwhelming evidence, one's adversary still remains stubbornly, irrationally wedded to his demonstrably false idea or failed policy? Suppose he meets your arguments not with factual rebuttal, but only with emotional outbursts—and with his own speculative *ad hominem* attacks on your motives and morality?

Under such circumstances, the grounds of argument have been shifted *by your adversary* from the logical to the psychological. At that point, one has the right in self-defense to ask himself: What emotional need is my adversary's policy prescription filling?

Examples are legion. Start with the *titles* of most liberal legislation and government agencies. They are supposed to guarantee "social security," "health and human services," "environmental protection," "consumer product safety," "job training partnerships," and so on.

Do they accomplish these objectives? The evidence (Sowell's book alone provides mountains of it) says not. In most cases, these institutions are never even crafted with "feedback" mechanisms to gauge their success or failure.

But does demonstrable failure ever cause a moment's hesitation or reflection on the part of those advocating such policies, programs, and agencies? Never. That's because, for their advocates, the objective success or failure of the program is beside the point.

The point, for the advocates, is that they have demonstrated their *moral commitment* to social security, environmental protection, peace, or other vague, noble-sounding objectives. The point is not practical results: it's instead the self-congratulatory objective of making themselves feel noble and righteous, by the cheap expedient of spending the capital—and too often, the blood—of their fellow citizens, in the name of woozy ideals.

For example, interventionists proclaim their aim to raise the income of poor, inner-city youth via minimum wage laws. But do they seem concerned when minority unemployment subsequently rises? They declare their support of rent control to allow the poor greater access to affordable housing. Do they ever seem concerned when the available stock of housing dramatically shrinks? They announce their intention to relieve starvation in Somalia by sending in our Marines to stop civil unrest and feed the people. Do they vow to cease such self-sacrificial missions in the future, when the only evident results are the empowerment of brutal warlords, and the return of our soldiers in body bags? No: they vow to repeat the same sort of "mission" in Bosnia.

For those who base their self-esteem on "good intentions" alone, a social system of laissez-faire capitalism and individual rights offers nothing. Capitalism is a social system whose currency is *results*, not intentions. "It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest," wrote Adam Smith. "We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages." This is anathema to those whose self-images totter shakily upon the props of their subjective intentions.

"The vision of the anointed," as Sowell describes it, ultimately depends upon self-inflicted blindness to *practical consequences*. For by *that* standard, they—and their policies—stand condemned. □

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THE FREEMAN
IDEAS ON LIBERTY

War and Liberty in American History

by Wesley Allen Riddle

> Of all the enemies to public liberty war is, perhaps, the most to be dreaded, because it comprises and develops the germ of every other. War is the parent of armies; from these proceed debts and taxes; and armies, and debts, and taxes are the known instruments for bringing the many under the domination of the few. In war, too, the discretionary power of the Executive is extended; its influence in dealing out offices, honors, and emoluments is multiplied; and all the means of seducing the minds, are added to those of subduing the force, of the people. . . . [There is also an] inequality of fortunes, and the opportunities of fraud, growing out of a state of war, and . . . degeneracy of manners and of morals. . . . No nation could preserve its freedom in the midst of continual warfare.

James Madison, the Father of the Constitution, said those words in 1795.[1] Today, renewed interest in the topic of war follows renewed interest in the subject of liberty. Indeed, a critical component of the republican ideology that gave birth to this country deals with war and comes to us from classical antiquity through the filter of the libertarian English Whig tradition.

Mr. Riddle teaches American History at the U.S. Military Academy, West Point. This essay is based on excerpts from remarks presented at a FEE summer seminar in Irvington-on-Hudson, August 14, 1995.

Clearly, the effects of war described by Madison are contrary to the interest of liberty, unless a country fights to free itself or defend its freedom from an aggressor. War typically endangers liberty—at least the way it was understood by our philosophical forebears. For as Thomas Gordon wrote in *Cato's Letters* (No. 62, January 20, 1721), liberty is "the power which every man has over his own actions, and his right to enjoy the fruit of his labour, art, and industry, as far as by it he hurts not the society, or any members of it, by taking from any member, or by hindering him from enjoying what he himself enjoys."

It is precisely because war suspends normal, peaceful, voluntary interactions that it is a usurpation of liberty. Moreover, war is likely to infringe liberty at all levels of exchange and development—individual, societal, and international. Conscription; command economic policies; government propaganda; restricted rights of speech and assembly; surveillance of private citizens; curfews and blackouts—these are all common forms of usurpation, along with debts and taxes. Indeed, it is partly because this nation has been continuously at war for so long that we have come so close to losing all our most precious freedoms. ("No nation could preserve its freedom in the midst of continual warfare.") But the Founders were cognizant of the dangers posed by war to liberty and to a liberal republic, and they

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designed the Constitution with them in mind.

Constitutional Abandonment

It is partly because this nation has so flagrantly abandoned the Constitution of original intent that we face the current crisis. For instance, Madison wrote in 1793 that it is a fundamental doctrine of the Constitution that the power to declare war belongs fully and exclusively "to Congress alone."[2] Thomas Jefferson said the intended purpose was to place an "effectual check to the dog of war, by transferring the power of declaring war from the executive to the legislative body."[3] Moreover, none other than Alexander Hamilton—a fierce nationalist and advocate of strong executive power—agreed that the Constitution prevented the president from singly committing the nation to war and that "the history of human conduct" warranted that restraint (*Federalist* No. 75).

Obviously, there are unclear cases, but the Constitution is unambiguous in requiring congressional approval for defending, say, South Korea from North Korean attack; for warring a decade in the jungles of Vietnam; for invading Panama; attacking Iraq; or for intervening in the Balkans.[4] There are arguments advanced for the extra-constitutional executive power it takes to deal with these and other contingencies, but they are weak and sometimes illogical. Congress dealt four times with similar instances by approving conditional declarations of war, a method that prevents tipping off adversaries to the imminence of military action. In three cases, disputes were peacefully resolved by the executive branch; war ensued in the fourth instance when Spain refused the demand to withdraw troops from Cuba in 1898. The president could ask Congress for permission to use force—in Haiti, Serbia, or wherever—if certain conditions were unmet after some designated amount of time.[5]

Congress's failure to officially declare war in post-World War II conflicts may have partly been a function of the Cold War and the consequent fear of precipitating Soviet involvement. Now that the Cold War is over, it is critical that we recur to constitutional provisions in this regard. Almost certainly, congressional decision-making would decrease U.S. involvement in war. Nevertheless, even congressional approval will not necessarily make war wise or just. War is *always* inimical to the Republic. Two examples will serve to illustrate.

The Mexican-American War

Following the admission of Texas to the Union in December 1845, President James K. Polk sent General Zachary Taylor to the Rio Grande River. The Polk administration claimed the river as America's border, but the claim was disputed by Mexico. Instead of pursuing good faith efforts to resolve the question diplomatically or, say, settling for a more reasonable southern limit at the Nueces River, Polk—Jacksonian Democrat and advocate of Manifest Destiny—almost certainly hoped to incite the Mexican attack on American forces, which did occur in April 1846. Congress then authorized men and matériel to prosecute the Mexican-American War. U.S. forces performed superbly under the able leadership of Taylor and General Winfield Scott, whose force landed at Veracruz in 1847, marched inland against forceful opposition, and occupied Mexico City. The Treaty of Guadalupe Hidalgo ended the war in February 1848. For $15 million and 13,000 dead, most to disease, America gained the Rio Grande border with Mexico, as well as all of present-day California, New Mexico, Arizona, Nevada, and Utah. However, that was not the full extent of "payment" we would eventually make.[6]

The Mexican-American War produced serious domestic divisions. In fact, the war polarized the nation in a way not seen again until the Vietnam War. The Mexican-American War provided the genesis for American traditions of conscientious objection and civil disobedience. The Whig Party's national journal, *The American Whig Review*, criticized "Manifest Destiny" and the Chief Executive's manner of involving

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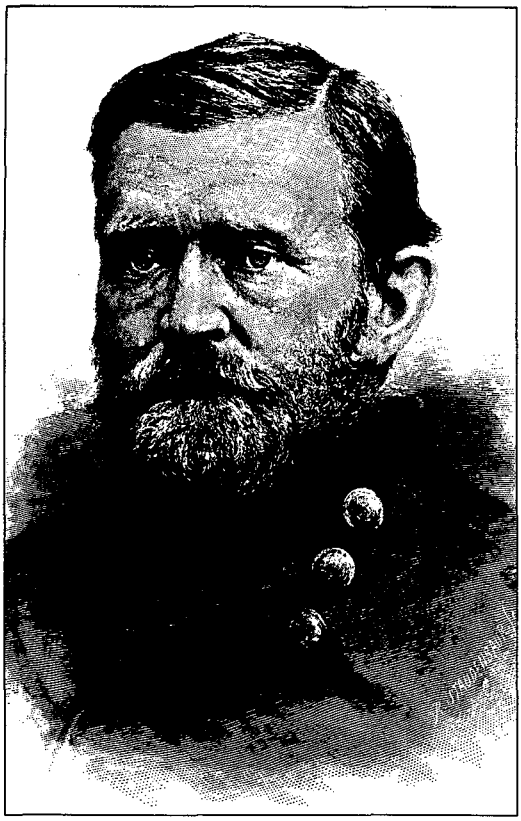

Ulysses S. Grant

the country in war with a bordering Christian republic. The publication asserted that the initial placement of soldiers in harm's way, as well as other covert military preparations, had constituted "one of the greatest crimes that can degrade a country."[7] War with Mexico transformed American forces into an "army of occupation"[8] and violated "first principles" of moral nations.[9] The war pressed a "conscience" faction to break from the party and join with abolitionists; other dissenting Whig elements maintained only a tenuous loyalty. Moreover, expansion into newly acquired territories forced bitter confrontations over a range of issues involving slavery, competing free labor, Founders' intent, and the nation's future in the largest sense. The rapid expansion of the Union eventually placed the whole Union at risk.

In the political battles following the Mexican-American War, ideology became both more sectional and less compromising. The War Between the States was the price we ultimately paid for the Mexican War. *The American Whig Review* recognized a prospective link between expansion and sectional conflict,[10] and the Whiggish *New Englander* actually predicted that war with Mexico would disturb the delicate balance in "relations between the States and the Union" and so risk another war.[11] In his memoirs, Ulysses S. Grant wrote: "The Southern rebellion was largely the outgrowth of the Mexican War. Nations, like individuals, are punished for their transgressions. We got our punishment in the most sanguinary and expensive war of modern times."[12]

Indeed. Those familiar with the history of American federalism will also know that the Civil War marked a critical shift in the locus of power from states to the federal government. Twentieth-century "progressives" have since led the nation on a path of ever more centralization, reaching an extent of consolidation even John C. Calhoun could not have imagined.

World War I

The Great War has faded in the collective memory of Americans. Yet to the extent that World War I is almost universally cited by historians to explain the origins of World War II, it is fitting—indeed essential—that any analysis of modern American history include some discussion of the American experience during the First World War. Otherwise, new appreciations might be shallow or incomplete, and the historical lessons drawn could be the wrong ones. Although America's direct involvement in World War I was relatively brief, it signaled a dramatic departure from U.S. precedent at home and abroad.

The Progressive Era may have been a bridge to modern times,[13] but World War I blew up the bridge and left us stranded on the other side. All previous American conflicts had involved plausible threats to American security, even if some were misperceived or overstated. Notwithstanding some German espionage and potential sabotage from bases inside Mexico, Germany in

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World War I did not pose a security threat to the United States or to this hemisphere. Furthermore, American involvement marked the first explicit rejection of George Washington's advice to avoid entanglement in purely European disputes. World War I is also the first American war to depend primarily upon conscripts, three million of whom filled 72 percent of wartime Army ranks.

American entry into the war is all the more remarkable since Woodrow Wilson was re-elected President in November 1916 on the slogan, "He kept us out of war." Barely five months later he asked the Congress for a declaration of war against Germany. The same month, the Administration established the Committee on Public Information (CPI), the government propaganda agency headed by progressive muckraking journalist George Creel.

Wilson had insisted on trading with belligerents, but France and England continued to enforce a blockade of Germany. The English also mined the North Sea. These steps violated neutral rights, but the United States continued to trade—theoretically with both sides. Over time, however, it was clear the United States dealt almost solely with the Allies. Practically speaking, American neutrality became decidedly one-sided; however, this fact did not ruffle Wilson's Anglophile sensibilities.[14] While France and England put Germany in an economic stranglehold, the Allies were dependent on the goods shipped from the United States. Germany responded by sinking American and Allied merchant vessels with her U-boats. Indeed, it was this submarine warfare, more than any other factor, that prompted U.S. involvement in the war: according to the propagandists, submarine warfare was sneaky; submarine warfare aimed at ships suspected of hauling military cargo was indiscriminate; women and children were amongst the 1,198 passengers lost when the *Lusitania* went under (not mentioned was the secret load of munitions). Yellow journalists had a field day.

World War I also changed the domestic social, political, and economic environment. Because the American people were naturally averse to involvement in a European war, the CPI helped mobilize and sustain the right kind of public opinion. It did so by commissioning an army of 75,000 speakers to tour the country to drum up support for government wartime policies. The CPI also distributed 75 million pamphlets and produced dozens of anti-German films and expositions. Other government agencies employed similar propaganda. The Food Administration found that "meatless Mondays" and "wheatless Wednesdays," as well as other conservation measures, went over better in an atmosphere of patriotic frenzy. Likewise, the Treasury Department held mass rallies even Goebbels might have appreciated, to encourage the purchase of war bonds.

Woodrow Wilson

Extra-Legal Power

These techniques were highly successful. The government found that overt and subtle

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forms of propaganda fanned the requisite passions of pride and prejudice to fight a total war in Europe. Indeed, this enabled the executive to skirt dubious Constitutional bases and statutory limitations in carrying out its wartime policies—policies which would never pass rational scrutiny in peacetime. It also proved that government propaganda aimed at selected aspects of American nationalism could facilitate government's exercise of extra-legal and extra-Constitutional power.[15]

In one instance, for example, the Wilson Administration nationalized the railroads (1917). In another, a German-American was actually bound in an American flag and lynched by a St. Louis mob (1918). Civil liberties were regularly constricted through official policy and social sanctions, indirectly encouraged by government propaganda. Both means enhanced the government's power to wage war "over there." The Administration quashed leftist political opposition by seizing membership lists and arresting some leaders, especially socialists and members of the Industrial Workers of the World (IWW). Liberal and conservative criticism was quelled by legislation that made "disloyal speech" illegal in wartime. The Espionage Act of 1917 and the Sedition Act of 1918 were used to prosecute and punish pacifists and all sorts of religious and secular groups opposed to the war. Certain alien opponents were summarily rounded up and deported in the notorious Palmer raids immediately after the war.

Meanwhile, the persecution of Germans in American society was so pronounced that Germans were forced to abandon their language and customs, at least in public. German books were burned outside numerous libraries, while Beethoven was banned from symphonic repertories. The atmosphere was such that Germans hid the fact they were German and changed their own names—Schmitz to Smith, and so on. For its part, the public renamed almost every German street and landmark and even altered menus, so that *sauerkraut* became Liberty Cabbage, and so on.[16]

The War Industries Board (WIB) orchestrated American industrial production. The WIB set production schedules, allocated resources, standardized procedures, coordinated purchases, covered costs, and guaranteed profits. In tandem, the National War Labor Board (NWLB) arbitrated labor disputes, stipulated working conditions, established overtime pay, and encouraged union organization. Although the federal government had assumed a great deal of power during and after the Civil War, the government achieved the first true command economy in America during World War I.[17] Furthermore, the war established certain precedents for future peacetime emergencies. The New Deal's National Recovery Administration was patterned on the WIB; the Wagner National Labor Relations Act of the Second New Deal was based on NWLB legislation. The 1917 Selective Service Act raised the size of the Army from 200,000 to nearly 4 million and was the precursor in form and substance for what would be the first peacetime draft in the country.

Government-sponsored intolerance and hysteria, encouraged for wartime purposes, continued to grow even after the conflict ended. Conscription and command economic policies, as well as government hiring practices, contributed to severe labor shortages, which drew hundreds of thousands of African-Americans out of the South into the industrial North. The government even sent labor agents to recruit from the South. The result was interracial friction and violence. When the war ended and the huge numbers of veterans returned home again, tensions flared anew.[18] Large race riots occurred in East St. Louis in July 1917, and Chicago and 19 other cities in 1919. Post-war labor dislocations also caused strikes to spread across the country in 1919.

Political nativism crested in the early 1920s, curtailing open immigration. At the same time, segregation in the South was formalized into its most rigid legal form ever. Jim Crow literally became an American system of apartheid. Anti-Semitism also spread. Intolerance married with government power had still another interesting

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political ramification: the Prohibition amendment (1919) invaded people's privacy and freedom to choose by banning alcoholic drink.

In the United States, the death toll from World War I numbered 112,432. The war's direct financial cost came to about $112 billion. Also dramatic was psychic and cultural disillusionment.[19] Everywhere, the Modern Age after the war was characterized by the renunciation of old values, something Ayn Rand called the "spiritual treason" of our century.[20]

Moreover, the history of U.S. government after World War I reads like the proverbial growth of a giant snowball. The so-called "roaring" nature of the 1920s obscured the impact of the war in "stimulating collectivist thinking and boosting public support for collectivist solutions."[21] Hence the experience of the First World War paved the way for public support of the New Deal and statist remedies for the Great Depression—itself caused by misguided government intervention.

First Principles

The fate of our republic hangs in a balance, and peace keeps her steady. What we must do is recur to first principles, restoring the Constitution to its original intent and devolving power from the central government back to states and the people. As Thomas Jefferson said in his first inaugural address: "a wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities."

But whether we can reconstruct the bulwarks of liberty to meet the challenges of a post-Cold War epoch depends in part on our keeping out of unnecessary wars. Our first responsibility to the world should be to be worthy of emulation—like a "Shining City set upon a Hill." Jefferson exhorted us in the same inaugural address to pursue what he termed an essential principle of our government, namely, "peace, commerce, and honest friendship with all nations, entangling alliances with none."[21] We should take the following passage from George Washington's Farewell Address and again make it the cornerstone of U.S. foreign policy: "The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations to have with them as little political connection as possible. So far as we have already formed engagements let them be fulfilled with perfect good faith. Here let us stop."

Washington continued: "It is our true policy to steer clear of permanent alliances with any portion of the foreign world, so far, I mean, as we are now at liberty to do it."[23] His point is of such present moment because we *are* at liberty to do it, and the chance may not soon come again. This is the first time since the onset of the Cold War 50 years ago that we have an opportunity to correct the numerous social, political, and economic distortions created in large part by our participation in prior wars. Minimizing our foreign entanglements would not mean disengaging from the world, nor, unfortunately, necessarily ending all war. It would, however, keep decisions for war within the purview of American sovereignty and eliminate superfluous military obligations and automatic triggers that might precipitate our involvement in conflict. It would reinforce the imperative that, in a republic, military force *should* be a policy of last resort.

The world remains awash in troubles—more, not fewer—since the collapse of the Soviet empire. But few vitally concern the United States. In contrast, there are, to use Friedrich Hayek's words, "totalitarians in our midst." The Welfare State in fact bears the fundamental characteristics of fascism, that is, government control of the use and disposal of private property and confiscation of private wealth to support welfare schemes and buy political patronage.[24]

Those bent on maintaining the Welfare State will be tempted to rejuvenate collectivist thinking by resort to war. If this rhetoric sounds alarmist, recall that Ger-

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many was quite different a hundred years before German nationalism delivered the German people to autarchy, militarism, and self-immolation, much of the rest of the world to war, and the Jews to the Holocaust. Ludwig von Mises reminds us that the German *leitmotiv* was once liberty, not oppression and conquest. Many years before Hitler, Germany had been the land of Schiller, Goethe, Herder, Kant, Mozart, Beethoven. Linking war to the rise of the total state, Mises identified "stages of [a] process which transformed the nation once styled by foreign observers that of the poets and thinkers into that of ruthless gangs of the Nazi Storm Troops."[25]

Nevertheless, if there are enough good people willing to pledge their lives, their fortunes, and their sacred honor to prevent the triumph of evil, then a rebirth of freedom can take hold in this country, which can define the new millennium. The last two centuries are littered with dead patriots from this country's wars. The best way to honor them is to reclaim that nation of liberty for which they gave their lives. □

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2. Letter to Gouverneur Morris, Philadelphia, August 16, 1793.
3. Letter to James Madison, Paris, September 6, 1789.
4. Doug Bandow, "The Power to Declare War—Who Speaks for the Constitution?: Part I," *Freedom Daily*, vol. 6, no. 6 (June 1995), p. 35.
5. *Ibid.*, "Part II," vol. 6, no. 7 (July 1995), pp. 33–4.
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8. *Ibid.*, vol. IV, no. 2 (August 1846), pp. 171–9.
9. *Ibid.*, vol. VII, no. 3 (March 1848), p. 219.
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11. *The New Englander*, vol. V (1847), see pp. 604–12.
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13. Robert Higgs, *Crisis and Leviathan: Critical Episodes in the Growth of American Government* (New York: Oxford University Press, 1987), chapter 6.
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16. *Ibid.*; and Wesley Allen Riddle, "War and Individual Liberty in American History," in Edmund A. Opitz, ed., *Leviathan at War* (Irvington-on-Hudson, N.Y.: Foundation for Economic Education, 1995), p. 141. See also Ronald Schaffer, *America in the Great War: The Rise of the War Welfare State* (Oxford: Oxford University Press, 1991), chapters 1 and 2.
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THE FREEMAN
IDEAS ON LIBERTY

Victor Hugo—Liberty and Justice For All

by Jim Powell

Literary lion Victor Hugo inspired an outpouring of generous sympathy for wretched people oppressed by government. He chronicled the evils of police power. He spoke out against capital punishment. He denounced taxes and tyrants. He opposed war. He expressed confidence in the ability of free people to achieve unlimited progress.

He was a leading light for liberty during the nineteenth century because of his prodigious and often lyrical output: nine novels, ten plays, and about 20 volumes of poetry, plus essays and speeches. He broke away from the suffocating formality of classical French literature and achieved the immediacy of plain talk. He wrote with high moral purpose about dramatic events and created great heroes of world literature. He enjoyed popular acclaim like no previous author in history.

Hugo's most beloved work, *Les Misérables*, nails government as a chronic oppressor. He shows poor people being helped not by government but by the charitable works of a private individual. He tells why a resourceful entrepreneur is an engine of human progress. He celebrates revolution against tyranny, while making clear why egalitarian policies backfire. His hero Jean Valjean does good voluntarily, peacefully.

Hugo fan Ayn Rand, whose novels about heroic individualism have sold more than 20 million copies, told biographer Barbara Branden: "*Les Misérables* was *the* big experience. Everything about it became important to me, holy, everything that reminded me of it was a souvenir of my love. It was my first view of how one should see life, wider than any concretes of the story. I didn't approve of the ideas about the poor and the disinherited, except that Hugo set them up in a way that I could sympathize with; they were the victims of government, of the aristocracy, or established authority. The personal inspiration for me was that I wanted to match the grandeur, the heroic scale, the plot inventiveness, and those eloquent dramatic touches."

To be sure, some contemporary friends of liberty weren't as impressed. Alexis de Tocqueville, author of *Democracy in America*, thought Hugo an "unruly genius." Lord Acton, among the most respected scholars on liberty, distrusted the blazing eloquence "that nobody but Hugo strives after now. . . . Some of these Frenchmen live on nothing else; and if one plucks them, or puts their thoughts into one's own language, little remains."

Hugo, though, courageously backed his convictions with action. In 1822, when he was 20, he defended Vicomte François-

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Réné de Chateaubriand, a famed French author who fell out of favor with the government. A childhood friend named Délon was hunted by police, presumably for his republican politics, and Hugo offered his house as a sanctuary. During the Revolution of 1848, Hugo went from one insurgent stronghold to the next, ducking gunfire all the way, urging an end to violence.

Hugo committed himself to the cause of liberty late in life, when he had the most to lose. As a youth, he had supported the French monarchy, and later he admired Napoleon Bonaparte for supposedly upholding the principles of liberty and equality. When Hugo was 49, he publicly defied tyrannical Emperor Napoleon III. As a consequence, Hugo lost his luxurious homes, his vast antiques collection, and splendid library of 10,000 books, but he emerged as an eloquent exile who championed liberty for people everywhere.

Like Jean Valjean in *Les Misérables*, Hugo helped the poor by going into his own pocket. He started at home, providing for his estranged wife and his sons who didn't earn much money on their own. He instructed his cook to feed beggars who showed up at his front door. Every other Sunday for about 14 years, he served "Poor Children's Dinners" to about 50 hungry youngsters in his neighborhood. His diaries abound with examples of personal charity. For example, March 9th, 1865: "Soup, meat and bread for Marie Green and her sick child." March 15th: "Sent a set of baby-linen to Mrs. Oswald who has just been brought to bed." April 8th: "Sheets to Victoire Étasse who is lying in, and without bed-linen." According to biographer André Maurois, personal charity accounted for about a third of Hugo's household expenses during his peak earning years.

Hugo was such an idol that his portrait engraving was sold at practically every bookstall in Paris. He had an athletic figure about five feet, seven inches tall. His trademarks were a vast forehead and intense light brown eyes. Early in his career, his long brown hair was brushed back in waves. In later years, his hair turned white, he had it cropped short and grew a moustache with a neatly trimmed beard.

Commitment and Energy

If Hugo wasn't an original thinker, he brought intense commitment and self-confidence to the cause of liberty. Literary critic Charles-Augustin Sainte-Beuve observed that when Hugo "grabs an idea, all his energy pushes at it and concentrates on it, and you hear arriving from afar the heavy cavalry of his wit and the artillery of his metaphors." As Hugo himself declared, "Nothing is so powerful as an idea whose time has come."

Victor Hugo was born February 26, 1802, in Besançon, France. He was the third child of Sophie Trébuchet, a sea captain's daughter. An admirer of Voltaire, the witty eighteenth-century French critic of religious intolerance, she apparently never had Victor baptized. His father, Joseph-Léopold-Sigisbert Hugo, had quit school to enlist in the army of the French Revolution, displayed unusual ability, and became a major-general under Emperor Napoleon Bonaparte.

Victor Hugo experienced a tumultuous childhood. His parents went their separate ways, and there was a long, bitter custody battle as the children were shuttled back and forth in England, Italy, and Spain. After Napoleon's downfall, the family had to scramble for a living.

Hugo dreamed of a literary career, but in 1821 his mother died. She left a mess of debts, and his father disapproved of his ambition which was likely to mean tough times. "I shall prove to him," Victor told his older brother Abel, "that a poet can earn sums far larger than the wages of an Imperial general." At the time, Hugo struggled to live on two francs a day.

Work

Hugo worked in an austere room with plain rugs, plain draperies, and no wall decorations. He stood while writing at a polished wood desk secured to a wall. He

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started work soon after 8:00 in the morning and continued until 2:00 in the afternoon. After a substantial lunch, he wrote from 4:00 to 8:00. Then he changed clothes and did work-related reading for three hours. By 11:00 PM, he was ready for a light meal with his wife and friends. "My colleagues spend their days visiting each other, sitting and posing in cafes, and talking about writing," he remarked. "But I am not like them. I write. That is my secret. What I achieve is done by hard work, not through miracles."

Hugo's first collection of poems was published in 1822. Then came a succession of poetic works which put Hugo in the forefront of the romantic movement, exploring emotions with melodrama and exuberant style. He ventured into politics with a poem saluting young French revolutionaries who, in July 1830, had toppled King Charles X after he began restricting individual rights.

Hugo became increasingly infatuated with heroic personalities, Napoleon above all. When Bourbon officials insulted three of Napoleon's aging marshals, Hugo wrote "Ode à la colonne de la Place Vendôme," a poem bursting with patriotic fervor. It caused quite a stir. Then Hugo wrote a play that idealized Oliver Cromwell, England's seventeenth-century Puritan military dictator who ordered the beheading of a king. The play wasn't produced, in part, because it was an obvious target for censorship.

Hugo resolved to succeed in the theater. Censors interpreted his first play, *Marion de Lorme*, as a slap at Charles X, and the production was shut down. Hugo responded by writing *Hernani*, discreetly set in sixteenth-century Spain, about a heroic rebel against authority. A lyrical melodrama, it opened at the Comédie Française on February 25, 1830, and reportedly enjoyed the most enthusiastic reception since the acclaimed plays of Voltaire a century earlier. Government censors feared that closing it down would provoke an uproar. Two years later, censors did shut down Hugo's next hit play, *Le Roi s'amuse*, which included an unflattering portrayal of François I, among the most famous of French kings. Giuseppe Verdi, Italy's outstanding opera composer who had turned *Hernani* into an opera (*Ernani*), called *Le Roi s'amuse* "the greatest drama of modern times," and it became the basis for his popular opera *Rigoletto*.

Hugo had already set his sights on writing fiction. His first novel, *Bug-Jargal* (1826) was a melodrama about blacks rebelling in Santo Domingo, and though critics considered it trash, the public loved it. Then, inspired by the novels of Englishman Walter Scott, Hugo wrote a medieval epic of his own: the anti-royalist *Notre-Dame de Paris* (1831) about the hunchback Quasimodo who falls in love with the gypsy heroine Esmeralda. The intensity of feeling and vividness of language captivated readers throughout the Western world. "Hugo," wrote literary critic Théophile Gautier, "is the greatest of living French poets, dramatists and novelists. He has no peer."

"Ideas Are My Sinews and Substance . . ."

Hugo was a shrewd observer of life around him. "Ideas are my sinews and substance," he remarked. "I must use them to earn my living and to make my continuing mark in the world, so I husband them, and never fritter them away. An observation, a feeling, even a fleeting sensation, all these are the precious marrow which compels me to stand at my writing desk."

Meanwhile, Hugo's wife, Adèle—they had been married in 1822—was bored with poetry, plays, novels, and their three children. By 1831, she had begun an affair with literary critic Sainte-Beuve. She refused to continue relations with Hugo, and he launched an extraordinary succession of affairs. Most were short-lived, but one—with actress Juliette Drouet—began in February 1833 and endured until her death a half-century later. Four years younger than Hugo, she had long black hair, violet eyes, a slim figure, and considerable knowledge of French literature. He paid her substantial debts, she became utterly loyal, copied his manuscripts, and performed other secretarial work. "I look on you," he wrote, "as

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the most generous, the worthiest and the noblest of all. . . ."

He plunged into political controversies. He had already written *Le Dernier Jour d'un condamné (Last Day of a Condemned Man)*, a polemic against capital punishment. King Louis-Philippe named Hugo a peer, which meant he became member of the French Senate and could participate in political deliberations. The French Revolution of 1848 overthrew Louis-Philippe, and in December there was to be an election for President of France. Hugo and a newspaper he edited backed Louis-Napoleon, who had a magical name although apparently he wasn't related to Bonaparte.

Having won, Louis-Napoleon conspired for absolute power. Government thugs smashed printing presses and newspaper offices. The government sent soldiers to Italy where they defended the Pope's power against republicans. Hugo, who had romanticized charismatic leaders, recognized the evil of political power. He became the leading voice of opposition to Louis-Napoleon. He ridiculed the President as "Napoleon le Petit"—"Napoleon the Little." Louis-Napoleon imprisoned Hugo's sons Charles and François-Victor. In December 1851, Louis-Napoleon disregarded a law limiting the President to one term and declared himself Emperor Napoleon III. Hugo formed a Committee of Resistance, but the Emperor's soldiers crushed all opposition and went hunting for Hugo.

Exile

Juliette Drouet arranged a safe house, disguised him as a shabby laborer, provided a passport for a new identity, and on December 11th got him aboard a night train for Brussels. She followed two days later. By becoming a political exile, Hugo forfeited virtually all his assets. Moreover, his royalty income had exceeded 60,000 francs a year, and it was illegal for French publishers to continue sending him checks. He soon proved too controversial for the Belgians who were trying to maintain good relations with Napoleon III. Hugo and his entourage settled on the Channel Isle of Guernsey, and that became his home for the next 14 years.

Hugo earned good money from his political writings. *Les Châtiments (Castigations)*, a 6,000-line poem, garnered him 75,000 francs, so he was able to pay 10,000 francs for Hauteville House. It was a magnificent four-story manor. He resumed his rigorous work routine in the solarium with unbleached linen curtains, a plain rug, and a slab of wood hinged to the wall for his standing desk. As a defiant exile, Hugo wrote in the tradition of intellectual rebels like Rabelais and Voltaire.

After a morning of intense work, Hugo had a "light meal" consisting of pâté, omelet, or fish, then roast beef, lamb, pork, or veal with potatoes and several other vegetables, salad, English puddings, cheese, and a different wine with each course. He did his serious eating at dinner which included a dozen or two oysters, soup, fish, perhaps roast chicken, then a hearty meat dish like Beef Wellington, salad, and a rich dessert such as chocolate mousse, followed by perhaps a half-dozen oranges. He remained in reasonable shape because everyday, regardless of harsh weather, he spent a couple of hours hiking along Guernsey's rugged coast.

From Guernsey came one literary triumph after another. In 1859, Hugo published *La Légende des siècles (Legend of the Centuries)*, an epic poem about the struggle for liberty and human progress. He denounced French King Louis XIV as a tyrant, celebrated the English defeat of the Spanish Armada and portrayed Napoleon III as a frog.

Napoleon III made a public appeal for French exiles to return, but Hugo defiantly responded: "I swore that I would remain in exile until the end, either my own or that of Napoleon *le Petit*." The *Times* of London declared "We are proud that Victor Hugo elects to live on British soil, which is enriched and nourished by his presence." The *New York Tribune* added, "His voice is that of free men everywhere."

Hugo began speaking out more about liberty. He denounced the December 1859 execution of John Brown, who tried to

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foment slave revolts in Virginia. He encouraged the efforts of Giuseppe Garibaldi to establish a liberal democracy in Italy. "Liberty," Hugo told a thousand people gathered on the Isle of Jersey, "is the most precious possession of all mankind. Food and water are nothing; clothing and shelter are luxuries. He who is free stands with his head held high, even if hungry, naked and homeless. I dedicate my own life, whatever may be left of it, to the cause of liberty—liberty for all!"

Les Misérables

Hugo turned to a project long simmering in his mind. This was a novel tentatively titled *Misères* for which he started making notes in 1840. From 1845 until work was interrupted by another French Revolution on February 21, 1848, he pushed ahead with it, changed the tentative title to *Jean Trejean* and put aside the manuscript. On April 26, 1860, he went to the tin trunk where he had stored the manuscript and resumed work. "I have spent almost seven months in thinking over and clarifying in my mind the whole work as I first conceived it," he noted, "so that there might be complete unity in what I wrote twelve years ago and what I am going to write now." He suspended his twice-a-day feasts, and his pen was ablaze. He wrote about two-thirds of the book in 1861. He finished *Les Misérables* on May 19, 1862.

The book chronicles the phenomenal saga of Jean Valjean, a peasant imprisoned 19 years for stealing a loaf of bread and breaking free from prison. He manages to escape again, adopts a new identity, and redeems himself through peaceful commerce, creating a successful manufacturing business which helps an entire region prosper. He builds schools and distributes a substantial part of his wealth to the poor. He rescues Cosette, an impoverished girl, from a monstrously abusive foster father and raises her himself. Despite abundant good works, Valjean is trailed by ruthless police inspector Javert who is intent on returning him to prison. He flees with Cosette, the business closes, and the region plunges into depression. When Valjean finds himself in a position to kill his tormenter Javert, he lets the inspector go free. Meanwhile, Cosette falls in love with Marius, a revolutionary republican who becomes severely wounded amidst the failed Paris uprising of 1832. Valjean saves him from police by carrying him through the only available escape route—the dangerous sewers of Paris. Marius marries Cosette, Valjean confesses to Marius that he is an old convict, and the horrified Marius banishes him from the household, which brings on his final illness. But just before Valjean dies, everyone is reconciled as Marius learns the full story about the man's saintly deeds.

While *Les Misérables* exudes generous sympathy for the most wretched among us, Hugo stood apart from the socialist trend of his time. He seemed to be countering the Marxist dogma of class warfare when he wrote "There has been an attempt, an erroneous one, to make a special class of the bourgeoisie. The bourgeoisie is simply the contented portion of the people. The bourgeois is the man who has now time to sit down. A chair is not a caste."

Hugo pressed his attack: "Communism and agrarian law think they have solved the second problem [distribution of income]. They are mistaken. Their distribution kills production. Equal partition abolishes emulation. And consequently labour. It is a distribution made by the butcher, who kills what he divides. It is therefore impossible to stop at these professed solutions. To kill wealth is not to distribute it."

Hugo expressed confidence that private enterprise and peace would alleviate poverty: "All progress is tending toward the solution. Some day we shall be astounded. The human race rising, the lower strata will quite naturally come out from the zone of distress. The abolition of misery will be brought about by a simple elevation of level."

Hugo decided to have *Les Misérables* brought out by Albert Lacroix, a Brussels publisher whom he considered a good businessman. The contract called for Hugo to

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receive a million francs—one-third upon signing, one-third in six years, and one- third in 12 years. The book was perhaps the first international publishing event, going on sale simultaneously in Amsterdam, Leipzig, London, Paris, New York, and other cities. Within a decade, it was published in some 40 countries. In 1874, full rights reverted to Hugo, and he authorized inexpensive editions. Altogether, some seven million copies of the book sold during the nineteenth century. With *Les Misérables*, Hugo earned more money than any author before.

Hugo continued to focus on novels. In 1866, he produced *Les Traveilleurs de la Mer (Toilers of the Sea)*, about a heroic fisherman who struggles against the elements. In 1869, Hugo wrote *L'Homme qui rit (The Man Who Laughs)*, a historical romance about a kidnapped English boy reared by gypsies, who exposes the failure of ruling elites.

Hugo spoke out anew as Napoleon III intervened in the affairs of other countries. Napoleon's military adventure in Mexico backfired. He got into a war with Prussia, and Prussian soldiers advanced toward Paris. Napoleon III abdicated September 4, 1870. Hugo gathered together his family and arrived in Paris the following day. He had gained some weight during his exile, there were circles around his eyes, and he sported a white beard, but his free spirit was still unmistakable.

Return to France

Thousands of people lined the streets as Hugo's carriage made its way to his new residence. There were shouts of "Vive la République!" and "Vive Victor Hugo!" Vendors openly sold his polemical poetry, and popular actresses like Sarah Bernhardt held public readings of it, donating the proceeds to help defend France against the Prussian onslaught. Hugo wrote a prophetic letter to the Germans, which urged that they make peace and warned that humiliation of France would trigger venomous hatred and ultimate defeat of Germany. Germany's "Iron Chancellor" Otto von Bismarck disregarded Hugo's appeal, Paris surrendered on January 29, 1871, and a half-century later embittered Frenchmen celebrated Germany's ruin during the First World War.

Victor Hugo's hero Jean Valjean lives on in the popular musical production of Les Misérables.

In February 1871, Hugo was elected a Deputy to the National Assembly of the French Third Republic. He railed against the humiliating settlement which involved French surrender of most of Alsace-Lorraine to Prussia, but it was ratified by a war-weary majority. Hugo denounced socialists who attempted a violent takeover and conservatives who struck back with fury.

Through all this, Hugo continued his disciplined writing. His most notable work in France—his last novel—was *Quatre-vingt-treize (Ninety-Three)*, a drama focusing on the climactic year of the French Revolution. His hero Gauvain was a liberal republican who courageously opposed the Terror. Ayn Rand wrote an enthusiastic introduction to

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a reprint because the book was about individuals committing themselves to moral values, and because Hugo had inspired much of her own work.

During his last years, Hugo was depressed by the death of his sons, but in other respects he had a grand time. He continued to arise at dawn and write till midday. *L'Art d'être grand-père* (*The Art of Being a Grandfather* [1877]), his collection of sentimental poems, further enhanced his popularity. Hugo had more romantic adventures. His personal fortune surpassed $1,400,000, an enormous sum in those days. He entertained as many as 30 dinner guests nearly every night. As Hugo began his 80th year, February 26, 1881, he was honored with a National Festival, a celebration the likes of which had never been seen for a private individual—some 600,000 admirers paraded by his opulent residence, 130 Avenue d'Eylau, in the Champs Elysées quarter, leaving huge mounds of flowers.

Nothing, however, could restore his spirits after the death of his beloved Juliette, of cancer, May 11, 1883. She was 77. Then on May 15, 1885, Hugo got what seemed like a bad cold. It turned out to be pneumonia. He was wracked with fever and struggled to breathe. He died around 1:30 in the afternoon, May 22nd, at 83. He was placed in a pauper's coffin, as he had requested, and set beneath the Arc de Triomphe. Then an estimated 2 million people watched as a mule cart carried him to his resting place at the Panthéon. He was buried beside Voltaire.

Since Hugo's time, his reputation outside France has endured with a single novel—nearly all his other novels, plays and poems forgotten. But that novel, of course, is *Les Misérables*, which has touched more hearts than ever. In 1978, French composer Claude Michel-Schonberg and lyricist Alain Boublil began work on a musical production of *Les Misérables*. On October 8, 1985, it opened in London, and two years later, on March 12, 1987, it came to Broadway. "A thrilling musical experience," declared *Time* magazine. *Les Misérables* has played in Australia, Czechoslovakia, Hungary, Israel, Japan, the Philippines, Poland, Singapore—22 countries altogether. Some 41 million people have seen this inspiring story of liberty and justice for all, Victor Hugo's most precious gift to the world. □

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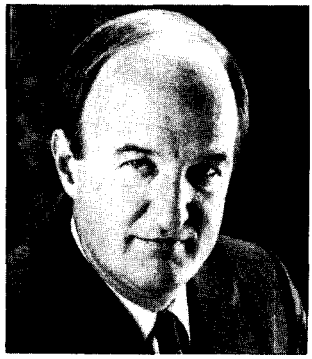

Another Shocking Reversal in Macroeconomics

"The potency of fiscal policy—both good and bad—has been demonstrated time and again in the past couple of decades."
—Walter Heller, 1968[1]

Who wrote this? "Fiscal policy is no longer a major tool of stabilization policy in the United States. Over the foreseeable future, stabilization policy will be performed by Federal Reserve monetary policy."

Milton Friedman? No, it was not a monetarist.

I recently met with Milton Friedman in his home in San Francisco, and asked him who he thought wrote the above statement. "Alan Greenspan?" he queried. No, it wasn't a Federal Reserve official.

The author is none other than Paul Samuelson! In his latest (15th) edition of *Economics*, co-authored by William D. Nordhaus, the premier Keynesian economist admits defeat for fiscal policy as an effective countercyclical tool.[2] This is truly an amazing confession, a shocking reversal of his long-standing bias of yesteryear.

It was Samuelson who wrote in his first edition (1948) of his famous textbook, "Today few economists regard Federal Reserve monetary policy as a panacea for controlling the business cycle." (1st ed., p. 353) Only fiscal policy mattered. His pivotal chapter, "Fiscal Policy and Full Employment Without Inflation," totally ignored the role of money in the economy.

By the ninth edition (1973), his views had shifted to a middle ground. After labeling monetarism "an extreme view," he declared, "*both* fiscal and monetary policies matter much." (9th ed., p. 329) However, Samuelson stood squarely in the fiscal camp. The title of his chapter, "Fiscal Policy and Full Employment Without Inflation," remained the same from the first edition until the eleventh edition (1980), the last written solely by Samuelson.

Finally, in the latest edition (1995), Samuelson has thrown in the towel, as if to admit, "We are all monetarists now." According to the MIT professor, running a federal deficit to jump start the economy "has lost much of its attractiveness to policymakers and macroeconomists." (15th ed., p. 644) His concluding chapter on government economic policy is now entitled, "Policies for Growth and Stability."

Why Fiscal Policy Has Become Impotent

In the late 1960s, economists debated the merits of fiscal policy (spending and tax changes) vs. monetary policy (the money supply and interest rates). The Keynesians argued that fiscal policy was the most pow-

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erful tool, the monetarists defended monetary policy as the most influential.

Now the debate is over: the monetarists have won.

Under the influence of new theories in economics (especially public choice and rational expectations), Samuelson offers several reasons for an impotent fiscal policy today: increasing delays (a year or more) between changes in the economy and Congressional action on the budget; ineffectiveness of deficits or tax cuts to stimulate consumer spending; and the enormity of the national debt, which severely limits the ability of lawmakers to run higher deficits to fight recession. In sum, declares Samuelson, fiscal policy has become "useless." (15th ed., p. 644)

Artificial Stimulants Don't Work

Samuelson's amazing change of heart reflects a growing realism in the economics profession. It never did make sense to artificially stimulate the economy through makework projects, war production, and other spendthrift programs, as Keynes suggested. But running a deliberate deficit is not only "useless," it is harmful to the economy. It discourages private saving and forces lawmakers to raise taxes in the future. Indeed, that has been the trend: higher deficits and higher taxes.

The lesson is clear: government needs to move in the opposite direction if it truly wants to stabilize the economy and permanently increase economic growth. By cutting out wasteful spending, it can turn the deficit into a surplus, and reduce taxes sharply.

Monetary Policy Is Useless, Too

Paul Samuelson needs to learn another lesson: Efforts to stimulate the economy through "easy money" Federal Reserve monetary policy are useless, too. If the Fed artificially lowers interest rates and expands the money supply, it can only cause an unsustainable boom-bust cycle. History has demonstrated this "Austrian" insight time and time again. Easy credit may provide temporary recovery, but the long-term effects are serious—more unemployment and recession in the future. In short, there is no free lunch. Active government intervention in the macroeconomy, whether in the form of deficit spending or easy money, is harmful to long-term growth.

Returning to the Classical Model

The best policy is non-interventionism. Taxes should stay low. Government budgets should be limited to essential services, and regularly balanced. The money supply should be stable and non-inflationary. Interest rates should not be manipulated.

There is nothing new about this non-interventionist approach. It represents the old classical school of Adam Smith (balanced budgets, low taxes, sound money, laissez faire).

What is noteworthy is the economics profession's gradual shift away from Keynesian economics toward the classical position. An examination of Samuelson's 15 editions of *Economics* reveals that he has slowly but surely abandoned the tenets of Keynesianism. In the past, he favored deficit spending; now he's opposed to it. He denigrated savings; now he promotes it. He condoned central planning; now he supports market reforms. Might we see a total conversion to laissez faire by the next edition, due to be released on the 50th anniversary of his first edition? We can only hope. □

1. Walter W. Heller, "Is Monetary Policy Being Oversold?" in *Monetary Policy vs. Fiscal Policy*, by Milton Friedman and Walter W. Heller (New York: Norton, 1969), p. 31.
2. Paul A. Samuelson and William D. Nordhaus, *Economics*, 15th ed. (New York: McGraw-Hill, 1995), p. 644–45.

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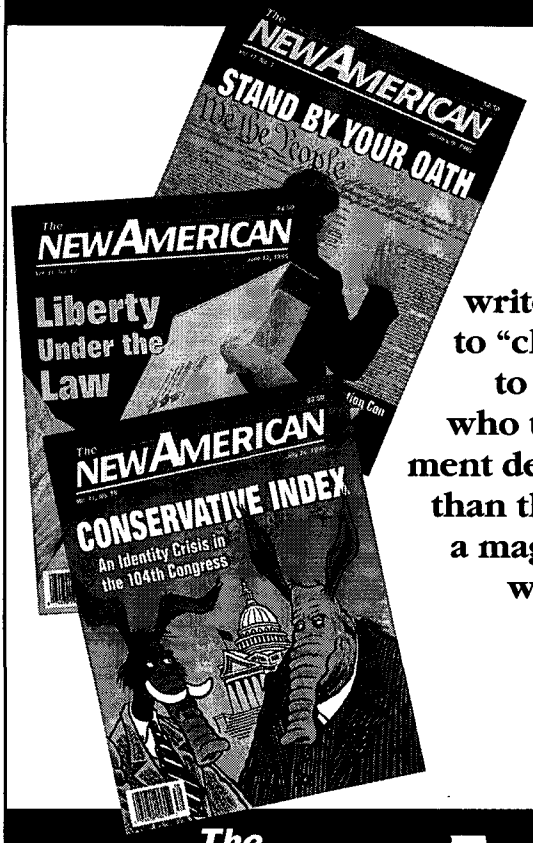

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BOOKS

The Freedom Revolution

by Dick Armey

Regnery Publishing • 1995 • 329 pages • $24.95

Reviewed by William H. Peterson

What lifts this book above the pack is extensive use of Armey's Axioms—witty though incisive truisms on public policy, from a man in a position to know. The author is the House Majority Leader, an architect of the "Contract with America," a champion of the flat tax, and a former economics professor at the University of North Texas.

Case in point is U.S. farm policy. The apt Armey Axiom here: "One bad government program creates the need for a worse one." The U.S. Agriculture Department starts out by benevolently guaranteeing the farmer "client" ample price supports on his crops and thus a high return on his investment. The unsurprising upshot is overproduction or vast farm surpluses that become unmanageable, that cram government storage bins.

This leads to an even more bizarre consequence. The bureaucrats then pay farmers not to farm. Literally. And the amount of land taken out of production is prodigious. In a typical year, reports Representative Armey, Uncle Sam idles 60 million acres, an amount equal to the entire land area of Ohio, Indiana, and half of Illinois combined.

The above Armey Axiom also helps explain the bizarreness of America's mass transit system. Over the last 25 years, Uncle Sam has pumped in more than $100 billion in mass transit subsidies, and now accounts for two-thirds of the operating cost of mass transit. With fewer skills than the average U.S. worker, the average transit worker is still paid 70 percent more. Yet ridership sinks and is lower today than in the 1960s. Nothing succeeds like a failed government program (a Peterson maxim).

Other targets of Armey Axioms include the Small Business Administration (with a 20 percent default rate on SBA loans), U.S. job training programs (the Job Corps program nips taxpayers for $30,000 per trainee), Rural Electrication Administration (its mission was over in the 1950s but it keeps on draining taxpayers), Legal Services Corporation (its tax-financed lawyers sue state and local governments on behalf of violent criminals evicted from public housing), and so forth.

More Armey Axioms: "The politics of greed always comes wrapped in the language of love." "When you're weaned from the milk of sacred cows, you're bound to get heartburn." "If you love peace more than freedom, you lose." "Social responsibility is a euphemism for personal irresponsibility." "There is nothing more arrogant than a self-righteous income redistributor."

Freedom works, says Dick Armey. That's his working title of this cutting yet beaming book. He holds America has only begun to grasp the meaning of great events in recent years—the revolution that sank Eurocommunism, for example, or the computer revolution, or the free-market revolution. These are but steps in the larger Freedom Revolution.

At the heart of this drama is Congressman Armey's simple idea that people should be trusted to spend their own earnings and decide their own futures. The most just and compassionate societies, he says, are also the most free. What welcome heresy! □

Dr. Peterson, an adjunct scholar at the Heritage Foundation, is Distinguished Lundy Professor Emeritus of Business Philosophy at Campbell University in North Carolina.

Bioethics—Opportunities, Risks, and Ethics: The Privatization of Cancer Research

by Robert K. Oldham, M.D.

Franklin, Tennessee: Media America, Inc. • 1995 • 416 pages • $14.95 paperback

Reviewed by Jeffrey A. Singer

Bioethics burst onto the scene last decade. Its mission: to analyze and judge the moral aspects of clinical and research

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medicine. Dr. Robert K. Oldham argues that ethical conduct "is simply a matter of doing that which is right." In *Bioethics*, he sets out to challenge the legitimacy of his most vocal critics: medicine's "mainstream" bioethicists.

Oldham's ongoing "war" with mainstream bioethicists stems from his challenge to the government-academia monopoly controlling therapeutic research that has evolved since World War II. The current generation of researchers and academics—ignorant of the entrepreneurial paradigm that guided research in the United States prior to World War II—find Dr. Oldham's statements and actions outrageous and troubling. And they should, for Oldham seeks to overthrow them.

Dr. Oldham is a highly respected cancer therapist specializing in the exciting new field of biotherapy. Biotherapy research is presently studying and developing ways to launch a coordinated attack on the tumor using the cancer patient's own immune system. Biotherapy rests on the premise that although each cancer has characteristics held in common with all other tumors of the same cell type, it also has certain individualizing characteristics distinguishing it from all other cancers of the same type.

With this insight, biotherapy has developed immune-enhancing therapies that are specific to an individual tumor and are less toxic and more effective than generalized immunologic therapies. These agents, either singularly or in combination "cocktails" are tailored for unique application to the specific patient. Much of this research is done by private medical technology companies.

Dr. Oldham founded the Oncology Program at Vanderbilt University College of Medicine. Later, he headed the Biotherapy Research Division at the National Cancer Institute, where he discovered an inherent flaw in the current drug development process. The current process involves research largely funded by the taxpayer or the pharmaceutical industry. Strict protocols established by the Food and Drug Administration must be followed, under penalty of law. This is not costless. The average length of time it takes to bring a new drug to market is ten years. The average cost runs in the hundreds of millions of dollars. Bad as this is, it is worse for cancer patients.

Oldham focuses on a particular problem that arises when a breakthrough occurs in therapeutic research. The anticipated tumor cure will not be made available, even on an experimental basis, to that patient until a few more years of FDA-required trials are completed. Such patients, the large majority of whom will be dead before the FDA finishes its trials, are denied access to a therapy despite having subsidized its research, and even despite their potential willingness to pay more to have this therapy, regardless of its experimental status. This is unethical. Research allegedly driven by the needs of patients is instead driven by the abstract needs of the experiment. Patients dying of cancer find the delay unacceptable, and the bureaucratic concern for their welfare ludicrous. Their time is running out.

Dr. Oldham left the National Cancer Institute in 1984 and founded Biotherapeutics, Inc., a for-profit, patient-funded cancer research company. Patients contracted for specific biotherapeutic regimens produced in this private lab and administered experimentally in Oldham's Biological Therapy Institute. The Institute reports the results of its research, both the promising and the unsuccessful. Since most biotherapies are produced on-site there is no interstate transport, and these agents are therefore exempt from FDA regulation.

The idea of patients engaging in voluntary contractual treatment was too much for the "medical-academic-governmental complex." Dr. Oldham came under forceful attack from bioethicists who charged that it was unscrupulous to ask patients to pay for their research. Dr. Oldham countered that the current scenario is worse—forcing them to pay for research they are then denied.

Bioethicists also asserted the appearance of a conflict of interest when the research is performed by a for-profit institution. Dr. Oldham cited work by Nobel laureate economist James Buchanan—founder of the pub-

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lic choice school of economics that applies economic theory to analyze political actors—and argued that non-profit and governmental institutions are at a greater risk for conflicts of interest, conflicts more easily hidden from the public given the lack of competitive forces.

Unfortunately, bad publicity resulting from his critics and bad business management decisions led to the demise of Biotherapeutics, Inc., in 1989. The Biological Therapy Institute remains, still directed by Dr. Oldham, but the prospects for speeding up available cancer therapy options for patients have been dealt a blow.

In *Bioethics*, Dr. Oldham exposes the reader to the fascinating prospects for medical research privatization. He makes the case that the current government-academic monopoly has come to regard the patient's interest as secondary to the interests of "science."

The reader is also introduced to the new field of bioethics, and exposed to debates on its legitimacy, both pro and con. Ethical arguments for and against patient-funded and for-profit research are presented at length.

Bioethics also contains an excellent discussion on the doctor-patient relationship. Dr. Oldham advocates a consensual relationship, in which the patient contracts with the doctor for a service and actively participates in all significant decisions with respect to his treatment. Oldham here creates (unknowingly) a medical analogy to the psychiatric relationship advocated by iconoclastic libertarian psychiatrist Thomas Szasz, M.D., in *The Ethics of Psychoanalysis* and other writings. Szasz called his approach "autonomous psychotherapy." We could call Oldham's approach "autonomous cancer therapy."

Bioethics is a series of reprinted articles and essays by Dr. Oldham and others, arranged to lead the reader through the story of Dr. Oldham's project and various implications of his thesis. The drawback of this format is that there is a tendency towards redundancy, as articles intended for different audiences repeat points already made. Author commentary tying together the issues and arguments made by these essays would have been appreciated, but is not included.

Despite these shortcomings, *Bioethics* is an extremely important work that deserves wide attention. It deals with issues rarely raised, but issues that are literally matters of life and death. □

Dr. Singer practices medicine in Phoenix, Arizona.

Japan: Who Governs? The Rise of the Development State

by Chalmers Johnson

W. W. Norton & Company • 1995 • 384 pages • $25.00

Reviewed by Russell Shannon

"Trade between the United States and Japan can be fair only if we level the playing field." So say countless politicians and others who decry the obstacles Japan erects to sales of American products in Japanese markets. Threats last year to impose 100 percent tariffs on Japanese luxury car imports are just one of many efforts by our government aimed at leveling.

Traditional trade theory holds that free trade will prompt nations to specialize on the basis of comparative advantage. Following this path means consumers in both countries will benefit from lower prices and producers will find new opportunities for profit.

But the author of these essays argues that the Japanese system has a totally different orientation. Job security for workers takes precedence over satisfaction for consumers. Similarly, because many stocks are rarely traded on the exchange and many large industries are essentially creatures of the government, Japanese managers are more powerful than shareholders and profits take a back seat to market share. And, perhaps most important of all, the power of bureaucrats in the various government ministries far exceeds that of politicians.

When Johnson suggests that our country

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should emulate Japan by developing more extensive industrial policies designed to favor selected industries, his presentation falters. He has fallen into the trap of presuming that policies which may be successful there would survive a transplant. Even were that permissible, the case for the premise that those policies were successful in Japan is far from airtight.

Moreover, Johnson ignores the implications of the evidence he presents. Surely, Japan's rapid economic growth is one of the wonders of the second half of the twentieth century. But the cost has certainly been high. Two examples from Johnson's book are particularly revealing.

One study revealed that in 1989 "a U.S.-made sedan selling for $13,507 in Chicago cost about $25,613 in Tokyo." This illustration shows how Japanese consumers are at a considerable disadvantage relative to Americans.

When one asks why the cost of consumer goods is still so high in Japan, one does not have to look far for the answer. The cost of government in Japan is also high. Johnson notes that fully 10 percent of Japan's annual GNP goes for infrastructure. By itself, that may not necessarily be a bad thing, but Johnson also points out that the construction industry is the most powerful lobbying agency and that Japan's politicians typically get a bonus of 3 percent of the value of construction projects that they arrange.

One is compelled, then, to ask, with such high costs, how have the Japanese managed to do so well? Surely, the strong work ethic is one reason. Another, which Johnson discusses in detail, is the fact that Japan was prevented, by the constitution adopted following World War II, from spending more than one percent of its annual GNP on defense. Some readers will surely conclude that Japan's success may have come more in spite of, rather than due to, extensive bureaucratic manipulation.

Putting Johnson's own myopia aside, however, one can find much to admire in this book. From his knowledge of the Japanese language, Johnson provides an engaging demonstration of the pitfalls of translation. His detailed discussion of the Lockheed bribery scandal provides a deeply disturbing picture of international economic relationships. He also makes it distressingly clear that we must shoulder some of the blame for the conflicts we have with Japan, as some of General Douglas MacArthur's policies during the occupation after World War II inadvertently augmented the power of the Japanese bureaucracy.

The Japanese have much to which they can point with pride, but we need not envy them. Similarly, there is much to learn from Johnson's book, though we need not always agree with him. Most likely, we have more to gain from looking at the positive side of our relationship with Japan and admiring the wisdom of this writer than we do from derogating their weaknesses. □

Dr. Shannon is Professor of Economics at Clemson University.

Guns, Crime, and Freedom

by Wayne LaPierre

Regnery • 1994 • 408 pages • $22.95

Reviewed by Bowen H. Greenwood

Wayne LaPierre's book *Guns, Crime, and Freedom* has a good many flaws. But in spite of them all, LaPierre has rendered a valuable service to the defenders of the Second Amendment. The primary virtue of *Guns* is that it collects nearly all of the arguments and evidence against gun control into one tidy volume, and makes them easily accessible to all.

This book deals with both the moral and the practical aspects of gun control. It presents the evidence for why it is wrong to oppress those who want to own guns; it argues that ownership of firearms is, in fact, a right. But LaPierre has also presented the evidence on the practical side of the gun control argument, showing how crime is not reduced by gun control.

LaPierre has collected a tremendous volume of evidence about what the framers of the Constitution really intended the Second Amendment to mean. From Thomas Jeffer-

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son's "No free man shall ever be debarred the use of arms," through John Adams, James Madison, and a whole litany of the revolutionary leadership in America, LaPierre demonstrates the desire of the framers that the American people should have the right to own weapons. Few can read this book and still deny that the framers intended the Second Amendment to give us all the right to arms.

Not stopping at the framers, though, LaPierre invokes an overwhelming weight of current legal scholarship. Citing one law review article after another, he reveals that those who sit down and actually study the Second Amendment all come to the same conclusion: it applies to everyone, not just the National Guard.

This book contains a wealth of statistics on the failure of gun control laws. LaPierre discusses the crime rates in countries with and without gun control, and destroys the liberal argument that Canada or Great Britain's lower crime rates are attributable to their strict control of firearms. He also provides similar statistics for various states in this country, and shows that those with the strictest gun control are also usually those with the highest crime rates.

Accompanying those figures are a set of powerful arguments, explaining why gun control fails. LaPierre repeats and expounds on the traditional "Criminals don't obey the current laws, so why should they obey gun control laws" argument. He also shows why less gun control can also equal less crime. From waiting periods to concealed weapons, LaPierre has compiled all the best defenses of the right to keep and bear arms.

Unfortunately, compiling is really all he has done. Although there is a wealth of information in this book, it is presented in such lackluster fashion that its value is diminished. There are enough typos and misspellings to make one wonder about the editing effort put into *Guns*. And the prose is labored and repetitive: the same arguments appear over and over again at seemingly random places in the text.

In the modern political climate, where those who resist gun control are portrayed as either fanatics or unlettered bumpkins, a smoother, more professional presentation would have aided opponents of gun control. The poor writing in this book will give the media establishment all the excuse it needs to ignore what is otherwise an overwhelming weight of evidence.

Despite its shortcomings, *Guns, Crime, and Freedom* is a comprehensive, well-researched reference work. All the facts necessary to refute those who call for the banning of guns are right at hand and fully indexed. Those who defend Americans' right to keep and bear arms will find this a valuable weapon in their fight. □

Mr. Greenwood is a journalist in Billings, Montana.

Risk

by John Adams

Bristol, Pennsylvania: Taylor & Francis • 1995 • 228 pages • $21.95 paperback

Reviewed by John Semmens

Who should decide how much risk you should take? Proponents of government safety regulation think that the government has the expertise to decide this issue for you. Professor John Adams of University College London presents a case for more individual autonomy.

While the government may have the manpower and the budget to commission numerous studies, tests, and experiments aimed at discovering what is safe, the fact is, it lacks the information most crucial to making an appropriate choice of risks. The information it lacks is each individual's highly subjective assessment of the risk/reward trade-off.

Life cannot be made risk-free. Every action bears some element of risk. Even inaction carries some risk. Whether any particular course of action is worth the risk that must be incurred to carry it out can only be determined by the individual who must bear the consequences, good or bad, of the action.

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That not everyone places the same weight on the prospective risks and rewards of a given action should be obvious. Consider some examples. The U.S. Navy, for instance, offers a "hazardous duty" bonus for those recruits willing to take flying assignments. Not all recruits choose to pursue flying. On the other hand, skydivers voluntarily incur expenses to pay for the privilege of experiencing the danger of jumping out of an airplane. Others fear to fly on even the safest of commercial airlines.

Given the varied preferences people have for the amount of risk they are willing to tolerate, it would seem that government-mandated safety devices are bound to violate the wishes of many individuals. Proponents of government safety mandates presume that "erring on the side of greater safety" excuses the inability to satisfy the varied preferences of different individuals. However, erring on the side of greater safety is easier said than done. Because people are not automatons, they cannot be counted on to passively accept government decisions on safety issues.

The idea that individuals attempt to balance risks and rewards is the foundation of the theory of "risk compensation." Risk compensation theory says that each individual has his own internal risk "thermostat." When perceived risk is higher than what the individual finds comfortable, he is apt to take risk-reducing actions. When perceived risk is lower than what the individual finds comfortable, he is apt to take more chances in pursuit of other objectives.

If government attempts to force more safety onto individuals than they would freely choose for themselves, some of them will try to convert the unneeded safety margin into an increased performance level. In the field of traffic safety, where government has been actively working to compel drivers to purchase and use more safety devices (for example, air bags and seat belts), there is a danger that some better protected drivers will try to convert this intended safety enhancement into a performance gain by driving faster or more aggressively. Dr. Adams presents evidence from a Dutch study in which it was found that persons who did not normally wear seat belts tended to drive faster and follow the vehicles ahead of them more closely in traffic when required to wear a seat belt.

More aggressive driving effectively shifts risk from protected drivers to others who may or may not be protected. The net result may be no reduction in traffic fatality rates, but merely a different assortment of victims. Dr. Adams presents evidence to indicate that despite predictions of dramatic declines in traffic fatalities that were supposed to follow the imposition of mandatory seat belt laws, there is no convincing proof that there has been any reduction. In a comparison of nations with and without mandatory seat belt laws, Dr. Adams discovered that those without these laws had a slightly larger decline in traffic fatality rates over the same time period.

It is apparent that risk compensating behaviors are offsetting the intended safety benefits that the government is trying to force on society. This is especially troubling when one considers how the risk may be redistributed. Dr. Adams has found data indicating that the decline in driver deaths is being offset by increases in deaths among non-driving vehicle occupants, pedestrians, and bicyclists. The driver is the one person with the most influence on whether a vehicle will crash. Making this person feel safer does not make the traffic environment safer. The fact that some of the non-driving victims of a government-induced shift of risk are children is a perverse unintended consequence.

A more humble role for government may be in order. Enforcing laws against crimes and holding people responsible for the damage they do to others may be enough of a burden for the government to undertake in the pursuit of public safety. In most respects, individuals would seem to be best served by being left free to make their own choices on how to balance the risks and rewards of everyday life. □

Mr. Semmens is an economist with Laissez-Faire Institute in Chandler, Arizona.

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From Here to Economy: A Shortcut to Economic Literacy

by Todd G. Buchholz

Dutton • 1995 • 278 pages • $21.95

Reviewed by Raymond J. Keating

The echoes of John Maynard Keynes still resonate across the intellectual and policy terrain traveled by economists. Thankfully, though, these echoes seem to be growing fainter with each passing year.

From Here to Economy serves as an example of such developments. Author Todd Buchholz provides an interesting overview of the economics world, though his book is occasionally marred with Keynesian fallacies.

First, let's deal with the downside of Buchholz's book. He lends *some* credence to such myths as the "overheated economy" and Keynesian pump-priming—giving them more serious treatment than warranted. Buchholz is, at times, a little too generous in his description and application of "macroeconomics."

In addition, one would have hoped for greater substance when describing free-market schools of thought, such as Austrian and supply-side economics. Though generally fair in his limited discussions of these two schools, the author is too dismissive of the Austrian influence in the study of economics.

Despite these negatives, there remain many positive aspects of *From Here to Economy*. Buchholz often manages to combine sound economics with an entertaining writing style.

Most important, Buchholz *generally* acknowledges the efficacy of markets and the many problems of government intervention. He sees the limits of government power and knowledge. Buchholz recognizes Friedrich von Hayek's important contribution in this area: "Hayek's most damning criticism of government intervention in the economy rests on [his] 'ignorance argument'—governments cannot possibly gather enough information from throughout the world to intelligently choose whether the price of tin should be X or Y dollars. In contrast, market players do not need to know anything other than prices in order to make their choices."

On other subjects, Buchholz hits the mark as well.

He understands the woes plaguing the health-care market: "The basic problem is that *most people who receive medical treatment are using someone else's money*."

The author also provides some fairly good entries on the evils of protectionism. He even offers a clear description of David Ricardo's concept of comparative advantage.

Buchholz concludes *From Here to Economy* with recognition of the entrepreneur as the driving force in the economy. To his credit, he also acknowledges the limitations of economists in this world of entrepreneurs: "While these almost mystical forces are hard to analyze with the economist's standard toolbox, we do know that [entrepreneurs] thrive in basically free environments. Too many rules, regulations, and taxes can snuff the entrepreneurial spark."

As is the case with the economics discipline in general, Buchholz excels when using the tools of microeconomics and falters when applying macroeconomics. With each turn of the page, Buchholz emerges as a market-oriented microeconomist struggling to shed years of Keynesian macroeconomic indoctrination. The time has arrived to sentence Keynes to the same irrelevancy of one of his forerunners—Thomas Malthus.

From Here to Economy symbolizes the entire economics discipline's struggle to recover from its self-inflicted Keynesian wounds. In this sense, it makes for interesting reading. However, for its intended purpose as an *introduction* to economics, it falls a bit short due to the aforementioned lingering Keynesian scars. I recommended Buchholz's previous book a few years ago in a review—*New Ideas From Dead Economists: An Introduction of Modern Economic Thought*—and I do the same with *From Here to Economy*, but with some serious reservations.

Mr. Keating is chief economist at the Small Business Survival Foundation.

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Private Rights and Public Illusions
by Tibor Machan
Foreword by Nicholas Rescher
Transaction Publishers • 1995 • 379 pages • $34.95

Reviewed by Doug Den Uyl

In many quarters these days it is fashionable to debunk the so-called "myth of the individual." Tibor Machan's book might be seen as a refreshing debunking of the "myth of the public." I say refreshing, partly because those who debunk the first myth are often victims of the second. In addition, although his is not the first book to call into question the value of attributing all goodness to the public, it is one of the few to question the public as the repository of all that is *morally* good.

Machan contrasts his approach directly with the more usual economic criticisms of public endeavors by focusing on the moral defects of thinking in terms of the "public welfare." The problem of the public welfare is not primarily one of having to choose between economic efficiency on the one hand and moral propriety on the other. Rather, it is one of justice, dignity, and well-being versus their opposites. The critical chapter in this regard is the third, where Machan discusses human dignity and the welfare state. Contrary to most of the rhetoric we hear, the welfare state neither reflects nor promotes human dignity. Human dignity for Machan is based upon personal responsibility, which he labels the "individualist tradition." The welfare state—with the "welfarist" ideas that surround it—is, by contrast, committed to substituting "collective judgment" or goals for that of the individual. The degree to which the trend toward the collective is carried through is thus the degree to which one *departs* from human dignity.

We may be tempted to claim that Machan's is simply one moral perspective combatting another, with the solution coming from outside the realm of morality altogether (e.g., from social science or law). One of the valuable aspects of this book is that the reader soon discovers how unstated moral principles are influential in guiding the methodologies and conclusions of both social science and law. There are, then, no "value neutral" platforms, so we might just as well come to terms with the moral issues directly. Machan's third chapter sets the tone by letting us know that since the welfare state is no purveyor of human dignity, the many aspects of life it is involved with are also tainted with moral problems, if not blatant injustices. The layout of the book, therefore, is based on discussion of where the tentacles of the welfare state have caught hold in various aspects of the market: labor, safety, the professions, pollution, advertising, and the like. In each of these areas the illusions of the public are brought forth. Despite Machan's vigorous defense of individual rights, his tone is not angry or polemical. He makes an effort to present the case for a position before offering his account of its problematic character, because he is aware that our political traditions are complex and sometimes ambiguous.

From the general welfare clause of the Constitution to various sequences of court decisions, certain ambiguities, tensions, and ultimately illusions are easily created and reinforced. The blend of elements that can lead to confusion is perhaps most strikingly presented in the chapter on national labor policy, also the longest in the book. Through a combination of court postures and a certain sort of economic reasoning, we see clearly how a policy often inimical to individual responsibility could arise.

This book is part of series of works on political economy sponsored by the Independent Institute. If political economy is an integration of knowledge from different disciplines of relevance to social and political life, then it is not simply the conclusions of this book that should interest us, but its approach as well. Moral issues and theories are not of theoretical interest alone, but embedded in the bowels of our social, political, and economic institutions. □

Professor Den Uyl is a visiting scholar at Liberty Fund, Indianapolis, Indiana.

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Land Rights: The 1990s Property Rights Rebellion

edited by Bruce Yandle

Rowman & Littlefield • 1995 • 333 pages • $22.95

Reviewed by Jonathan H. Adler

Richard and Nancy Delene intended to create their own little wildlife reserve in Michigan's Upper Peninsula. They purchased over 100 acres of duck ponds and wildlife habitat and sought to improve upon it, making it a more attractive home for indigenous species. The Michigan Department of Natural Resources had other ideas. The Delenes were ordered to cease their activities and were threatened with well over $1 million in fines for not having the proper government permits to shift dirt on their own land.

The Delenes are not alone. Indeed, across the nation individuals and families are discovering that the lands they thought were their own are only theirs in trust. To make use of the land requires obtaining permission from federal, state, or local authorities, and sometimes all three. The right to make private use of private land can be taken by the government, and rarely does the state have to make the owner whole. It is as if the land is actually owned by the state, and not those who possess it. It is the modern equivalent of feudalism.

Americans are increasingly unhappy with this state of affairs, and hence this book. There is a growing rebellion against the wanton violation of property rights, and Bruce Yandle has put together a valuable volume to chronicle its development and explain its roots. *Land Rights* is the first reference book for the property rights movement.

The book has nine chapters, each by a different author. The contributions cover the legal history of property rights litigation, important Supreme Court cases, and political developments at the state and local level. A chapter each is devoted to the Endangered Species Act and the wetlands provisions of the Clean Water Act—the two laws under which the greatest property rights violations occur. There is even a chapter that explains how current environmental laws have come to approximate federal land-use planning of the sort explicitly rejected in the 1970s. *Land Rights* covers the gamut of issues relating to the property rights rebellion, and explains why property rights have become such an important political issue.

Most federal affronts to private property are the result of environmental legislation. Environmental laws, such as the two mentioned above, are premised on the idea that only government agencies can act in defense of environmental quality. Fortunately Yandle has included a chapter by Roger Meiners that spells out a property-based alternative that is grounded in the common law tradition. As Meiners points out, what is now often considered environmental protection was once considered the protection of private property from outside assaults. Rights were vindicated not due to the watchful eye of agency bureaucrats. Rather property rights enable individuals, families, and communities to vindicate their cases in court. So long as courts upheld this approach, potential polluters were forewarned about the economic repercussions of violating the property rights of others. It was a superior system that has fallen out of favor.

Americans believe in private property; majorities polled want them to receive far more protection. *Land Rights* helps one understand why property rights are an issue, and why they are so important. In the words of Noah Webster, "Let the people have property and they will have power that will forever be exerted to prevent the restriction of the press, the abolition of trial by jury, or the abridgement of any other privilege." □

Jonathan Adler is director of environmental studies at the Competitive Enterprise Institute in Washington, D.C., and the author of Environmentalism at the Crossroads: Green Activism in America *(Capital Research Center).*

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Private Cures for Public Ills: The Promise of Privatization

edited by Lawrence W. Reed

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